

HEARINGS ON THE PARIS PEACE ACCORDS

HEARINGS
BEFORE THE
SELECT COMMITTEE ON POW/MIA
AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SECOND CONGRESS
SECOND SESSION
ON
HEARINGS ON THE PARIS PEACE ACCORDS

SEPTEMBER 21, 22, AND 24, 1992



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HEARING ON THE PARIS PEACE ACCORDS

MONDAY, SEPTEMBER 21, 1992

U.S. SENATE,
SELECT COMMITTEE ON POW/MIA AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 8:55 a.m., in room SH-216, Hart Senate Office Building, Hon. John F. Kerry (chairman of the committee) presiding.

OPENING STATEMENT OF HON. JOHN F. KERRY, U.S. SENATOR FROM MASSACHUSETTS

Chairman Kerry. The hearing of the Senate Select Committee on POW/MIA Affairs will come to order.

We meet this morning to begin the final process of this select committee prior to our beginning to write a report, and we begin to do so with a belief and I think other Members share a belief will prove historic and very productive 3 days of hearings surrounding the Paris Peace Accords and the issue of Americans listed as missing or POW during the war in Southeast Asia.

It is a matter that we are going to discuss this week really go to the heart of why this committee was created, and they go to the heart of the questions that have lingered for 19 years and that still haunt America. Some people might sit there and say well, what is the purpose of an exercise where they now are talking to people who were part of a process 20 years ago. The fact is that the entire mystery, the entire dilemma that this country faces in 1992 over missing and MIAs grew out of the 1972-73 period, and it is impossible for this committee or anybody today to make a sound judgment about the possibilities of POWs or even about the truthfulness of the Paris Accords itself, without understanding what people knew, what they believed to, what they believed, and what were part of the dynamics of the events of 1972 and 1973.

That is why we are here. I want to emphasize we are not here to renegotiate the war. We are not here to renegotiate the agreement. We are here to find out the truth of what people understood at that time, to understand the dynamics, and to understand better why we are here now, and later trying to find answers. We want to know what was established with what belief system for the accounting, and obviously do so, and I emphasize this, and obviously, it is a difficult line to walk.

There is no doubt that somewhere in the course of the next 3 days we will cross the line here or there. It is hard not to. But we will do it with a broad intent to make that the focus of these hearings is hard not to recognize the emotional issues that are at

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The matters that we are going to discuss this week really go to the heart of why this committee was created, and they go to the heart of the questions that have lingered for 19 years and that still haunt America. Some people might sit there and say well, what is the purpose of an exercise where they now are talking to people who were part of a process 20 years ago. The fact is that the entire mystery, the entire dilemma that this country faces in 1992 over POWs and MIAs grew out of the 1972-73 period, and it is impossible for this committee or anybody today to make a sound judgment about the possibilities of POWs or even about the truthfulness of this issue itself, without understanding what people knew, what they reacted to, what they believed, and what were part of the dynamics of the events of 1972 and 1973.

That is why we are here. I want to emphasize we are not here to refight the war. We are not here to renegotiate the agreement. We are here to find out the truth of what people understood at that point in time, the dynamics, and to understand better why we are here 20 years later trying to find answers. We want to know what process was established with what belief system for the accounting, and we obviously do so, and I emphasize this, and obviously, it is a difficult line to walk.

I have no doubt that somewhere in the course of the next 3 days we will cross the line here or there. It is hard not to. But we will not do it with a broad intent to make that the focus of these hearings. It is hard not to recognize the emotional issues that are at

stake, and it is hard not to be sensitive to the difficulties that existed at that period of time in the United States of America and in the dynamics of that war.

This week, we will go beyond the official story to reveal elements of the real story that have never before been made public. We are going to bring the American people inside the circle of knowledge that previously extended to only a very few, a circle that has included no congressional investigator, no journalist or historian, with a few exceptions, to access to documents they were not supposed to have or conversations that broke the seal of classification, no average citizen or voter, certainly, has been near these issues.

We are able to do that, and I want to emphasize this, because President Bush and the Administration, at the request of the committee, have been willing to make public an unprecedented amount of previously classified material, including some of the raw negotiating record in Paris and the internal Executive Branch response to POW lists provided by North Vietnam.

I personally, on behalf of Senator Smith and myself and the committee, want to extend our appreciation to General Scowcroft, because he has worked many long hours with us, he has been available to us on demand, and during these meetings I think he has gone against his own sense of what was appropriate in the context of protecting the Executive Branch in order to try to guarantee that the committee had access to information.

While classified documents are being released today with large black spots in them that represent what we call redaction in governmentese, every Member of this committee has had access to those documents in unredacted form. There is no black area that has not been made available to Members of this committee. So I want to emphasize that the redactions have met, by and large, with the approval of the committee, and in some cases we have been able to cross the line even of executive privilege with a certain significance, I think. And that will become clear in the course of these hearings.

I also want to emphasize that the people who appear before us over the course of the next 3 days are not here to be blamed, they are not here to be scapegoated, and I cannot emphasize that enough. That does not mean that this committee will shy away from asking tough questions or asking why certain things were done. But this committee hopes that we can carry out this responsibility in the spirit of helping the American people to understand the tensions and dynamics and realities of 1972 and 1973 and the choices that were made by dedicated public servants under extremely difficult circumstances.

We will hear first today from the former chief of the CIA, chief administrator, and also Secretary of Defense for a period of time, James Schlesinger. His testimony will touch on numerous aspects of this issue, and whose schedule requires us to try to move the process along, which is why we are meeting so early this morning.

Following Secretary Schlesinger, we will proceed in roughly chronological fashion, beginning with witnesses who will describe the negotiations leading up to the agreement, then the agreement itself, the complications during implementation, and finally, reactions subsequent to Operation Homecoming. Appearing tomorrow

at the center of these hearings, as was at the center of the negotiations themselves, will be the distinguished former National Security Advisor and Secretary of State, Henry Kissinger.

Now, as I have said several times before, and I will be very brief, we have reached reality time on the POW/MIA issue. We need to have facts, and we need to have, obviously, the truth. It is the time for anyone with a theory to put up whatever information they have before the committee. The esteem in which we hold the witnesses who before us will not deter this committee from asking the tough questions that are in front of us.

We have a responsibility to our colleagues, to the families, and to ourselves to seek the truth. Whether the truth is convenient or easy to accept or congruent with our own test suspicions and expectation, I am convinced that we can never erase the doubt regarding this issue, and we will never have a better opportunity to do so, and we certainly will not be able to do so if we set ourselves a lower standard than asking those tough questions.

So I look forward to some very productive hearings, and I hope to a very constructive dialog.

[The prepared statement of Senator John Kerry follows.]

PREPARED STATEMENT OF SENATOR JOHN KERRY

The Select Committee meets this morning to begin what I believe will prove an historic and productive 3 days of hearings surrounding the Paris Peace Accords and the issue of Americans listed as missing in action or taken prisoner in Southeast Asia.

The matters we will discuss this week go to the heart of why this committee was created. They go to the heart of the questions that have lingered for 19 years and that still haunt America, questions that families have been asking ever since those days in 1973 when so many American prisoners came home and so many others did not.

The entire POW issues revolves around the peace agreement and events leading up to it and flowing out of it. The fundamental questions are obvious. Did we get the best possible agreement for our POWs, taking into account all the pressures and conflicts of that time? How important were our POW/MIAs compared to other negotiating objectives? Did we know of Americans in captivity who did not appear on the POW lists turned over by North Vietnam after the agreement was signed and, if so, what did we do about it; and what could we have done about it? And most important, did our Government level with us about the possibility that POWs may, indeed, have been left behind?

This week, we will go beyond the official story to reveal elements of the real story that have never before been made public. We are going to bring you, the American people, inside the circle of knowledge that previously extended to only a very few, a circle that has included no congressional investigator, no journalist or historian, no member of a POW/MIA family, no average citizen or voter. We are able to do that because this Administration, at the request of this committee, has been willing to make public an unprecedented amount of previously classified material, including some of the raw negotiating record in Paris and the internal Executive Branch response to the POW lists provided by North Vietnam.

I make it clear at the outset that our purpose this week is not to refight the Vietnam war or to reopen the wounds of that tortured era. We have no desire, 20 years after the fact, to question anyone's competence or commitment or dedication to bringing our POWs home. The fact is that the individuals we will hear from this week comprise an almost unprecedented assemblage of accomplishment and service to our country. That service has continued through the sacrifice of time and convenience necessary to help this committee in its work, and we are grateful to each and everyone of you for that.

Today, we will hear first from former CIA and Defense Department chief James Schlesinger, whose testimony will touch on numerous aspects of this issue, but whose schedule requires that he complete his testimony by 10 o'clock.

Following Secretary Schlesinger, we will proceed in a roughly chronological fashion, beginning with witnesses who will describe the negotiations leading up to the agreement, then the agreement itself, then complications during implementation and finally reactions subsequent to Operation Homecoming. Appearing tomorrow, at the center of our hearings, as he was at the center of these events, will be the distinguished former National Security Adviser and Secretary of State, Dr. Henry Kissinger.

As I have said several times before, we have reached reality-time on the POW/MIA issue. The esteem in which we hold the witnesses who will appear this week does not mean that we will shrink from hard questions. We have a responsibility to our colleagues, to the families and to ourselves to seek the truth whether that truth is convenient or easy to accept or congruent with our own past suspicions and expectations. We will never erase doubt and division if we set for ourselves a lower standard than that. And we will never lay this issue to rest unless we meet that standard with the fullest and most public examination of the truth it is within our capacity to provide.

Senator Smith.

STATEMENT OF HON. ROBERT C. SMITH, U.S. SENATOR FROM NEW HAMPSHIRE

Vice Chairman SMITH. Thank you, Mr. Chairman. I do want to apologize to the witness and to my colleagues, to the press and the public for my voice this morning. I am battling a nasty cold.

In deference to the witness, I will be very brief because I know he has a flight to catch. I just want to say, too, that I am grateful for the opportunity to be able to get an insight into this period of history for the first time. It is 20 years too late, but better late than never, I guess, would be the way to put it.

I, too, want to thank General Scowcroft and the Administration, President Bush and the Administration, for giving us the access to documents that we have never seen before. The cooperation has been excellent, especially with General Scowcroft who has given very generously of his time going over in evening meetings with Senator Kerry and I document after document to try to protect the deliberative process in the Executive Branch, at the same time giving us access to information.

I would also repeat what Senator Kerry said, that redacted portions are available to us to see, and some of us have reviewed all of that. So anything that is redacted out to the public, it does not mean that this committee has not seen it.

There are some documents that we have yet to see, and we are having some procedural problems. Hopefully, they will be worked out. For example, the Nixon tapes are one area that we have not yet gotten access to. But those are really not all within the jurisdiction of the Administration. Some of that is the Nixon library and Nixon lawyers and so forth. So we are doing all that we can do.

I want to enter into the record this morning a chronology which I have put together, and I would ask unanimous consent that this be inserted in the record prior to the witness' testimony, Mr. Chairman. But it is just over the past 8 years I have worked on the issue and put together a lot of facts that some in—that have—I have accumulated and I wanted to put it in some chronology. And I think it will be helpful to the press and to the Senators to see the actual chronology, starting with Secretary Kissinger in his first meeting with Le Duc Tho and moving all the way up to the present, most

recently comments from Secretary Kissinger on the Larry King show, I believe, or Nightline.

Senator KERREY. Mr. Chairman? Since that was a unanimous consent request, is this your own account of events of the time or did staff prepare this?

Vice Chairman SMITH. No, this is not an account. All it is is a chronology of facts.

Senator KERREY. But you are representing it to the public as yours or the committees?

Vice Chairman SMITH. It is mine, not the committee's. That is why I did not do that on committee, is I wanted it to be clear that this was my chronology.

Chairman KERRY. Without objection, so ordered.

[The prepared statement of Senator Bob Smith follow:]

PREPARED STATEMENT OF SENATOR BOB SMITH

"... in one of the first lists of negotiating points put forward by the North Vietnamese, the Communist side bracketed the release of prisoners with what they described as 'U.S. responsibility for war damage in Vietnam' in a single numbered point. . . . I know of no instance in which an adversary so openly treated this humanitarian problem in this way. We recognized from an early date what we were up against. . . ."—Testimony of Philip Habib, Under Secretary of State, before Congress on July 21, 1976.

POLICY-RELATED EVENTS/DECISIONS/COMMENTS FROM 1973 ONWARD CONCERNING UNACCOUNTED FOR AMERICAN POWS AND MIAS IN SOUTHEAST ASIA

(Note: This chronology does not include the substantive intelligence information on U.S. POWs reported alive in captivity in Vietnam and Laos between 1973 and 1992.)

SEPTEMBER 21, 1992

January 11, 1973—President Nixon's National Security Advisor Henry Kissinger sends a message to Ambassador Bunker in Saigon which states, in part, "(Le Duc) Tho and I met for 6 hours . . . we completed the text of the Agreement. We also completed the associated understandings. Major ones include . . . iron clad guarantees on our prisoners in Laos and Cambodia." (Note: Le Duc Tho is the North Vietnamese representative to the Paris peace talks.)

January 23, 1973—At 12:30 Paris time, Henry Kissinger and Le Duc Tho initial the "Agreement on Ending the War and Restoring Peace in Vietnam."

President Nixon announces from the Oval Office that the United States had that day concluded an agreement "to end the war and bring peace with honor in Vietnam and in Southeast Asia." Nixon states the agreement will be formally signed Saturday with a cease-fire to go into effect at 7:00 p.m. Washington time (Saturday).

He further states, "Within 60 days from this Saturday, all Americans held prisoner of war throughout Indochina will be released. There will be the fullest possible accounting for all of those who are missing in action. During the same 60-day period, all American forces will be withdrawn from South Vietnam. Finally, Nixon states that the terms must be "scrupulously adhered to" in order for the peace to last and to heal.

January 24, 1973—Dr. Kissinger holds a press conference to explain the text of the agreement to reporters. Kissinger states, in reference to the return of U.S. POWs, "We have been told that no American prisoners are held in Cambodia. American prisoners held in Laos and North Vietnam will be returned to us in Hanoi. And all American prisoners will, of course, be released within 60 days of the signing of the agreement. The signing will take place on January 27. . . ."

Kissinger further states that the return of American personnel and the accounting for the missing in action is "unconditional." Although Laos was not a signatory to the Paris accords, Kissinger states he firmly expected that there would be a formal cease-fire in Laos in a short period of time. In regard to economic aid, Kissinger states, "we will discuss the issue of economic reconstruction of all of Indochina, including North Vietnam, only after the signature of the agreements and after the implementation is well advanced. And the definition of any particular sum

will have to await the discussion which will take place after the agreements are in force. . . . In response to a question on the existence of secret understandings, Kissinger responds, "There are no secret understandings."

Vice Director of the Joint Staff Martin Colladay sends a memorandum to Secretary of Defense Richard proposing the establishment of a Joint Casualty Resolution Center in Laos to search for both POWs and MIAs.

January 26, 1973—Dr. Kissinger meets with Congressman Montgomery and other Congressmen, stating he sees "no reason why the North Vietnamese should hide or hold back on a list of Americans captured in Laos." (Associated Press)

Kissinger also meets with 22 members of the National League of POW/MIA Families telling them "Understandings on Laos are absolutely clear concerning POW releases in a timeframe similar to that in Vietnam. They (the North Vietnamese) cannot hold our men for ransom. They must perform and fulfill their obligations. There is no set sum for reconstruction assistance. There cannot be any blackmail by them. In North Vietnam it is almost inconceivable that they will hide any POWs. The men have generally been kept in compounds, they have met men in the compounds, in their travels, etc. . . ."

January 27, 1973—"The Agreement on Ending the War and Restoring Peace in Vietnam" is formally signed at the International Conference Center in Paris by U.S. Secretary of State William P. Rogers, GVN Foreign Minister Tran Van Lam, and DRV Minister for Foreign Affairs Nguyen Duy Trinh, PRG Minister for Foreign Affairs Nguyen Thi Binh. The cease-fire goes into effect.

Article 21 of the agreement states, "In pursuance of its traditional policy, the United States will contribute to healing the wounds of war and to postwar reconstruction of the Democratic Republic of Vietnam and throughout Indochina."

Article 8A of the agreement states, "The return of captured military personnel and foreign civilians of the parties shall be carried out simultaneously with and completed not later than the same day as the troop withdrawal mentioned in Article 5. The parties shall exchange complete lists of the above-mentioned captured personnel and foreign civilians on the day of the signing of the Agreement."

Article 8B of the agreement states, "The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such measures as may be required to get information about those still considered missing in action."

Article 22 of the agreement states, ". . . the strict implementation of this agreement will create conditions for establishing a new, equal, and mutually beneficial relationship between the United States and the Democratic Republic of Vietnam on the basis of respect for each other's independence and sovereignty, and non-interference in each other's internal affairs."

In a supplementary protocol, it is provided that POWs will be released in approximately equal installments at 15 day-intervals during a 60-day period. (This would necessitate the first release occurring on February 12, 1973.)

At 12:50 p.m. EST, the United States is handed lists from the Vietnamese side containing 717 names of POWs, including 64 names of persons who are reported as having died in captivity, as well as names of foreign nationals and other persons who had already been released. The North Vietnamese list contains 495 names and the PRG list contains 222 names.

The North Vietnamese list is submitted by the Ministry of National Defense and is labeled "U.S. Pilots Captured in the Democratic Republic of Vietnam."

Of the list of 717 names, there are 577 U.S. citizens to be repatriated (555 U.S. military and 22 U.S. civilian). This list is from a total of over 1,900 U.S. personnel listed by the Department of Defense as POWs and MIAs and over 1,100 persons listed by the KIA (body not recovered).

The lists from the Vietnamese contain no names of 1,269 U.S. personnel carried by the U.S. as missing in action.

The lists from the Vietnamese contain no names of 87 U.S. personnel (73 military, 14 civilian) carried by the Defense Intelligence Agency as prisoners of war.

The lists from the Vietnamese contain no U.S. POWs captured or held in Laos.

January 28, 1973—Mrs. Phyllis Galanti, board chairman of the National League of POW/MIA Families tells a reporter, "there are no Laos names," referring to the list provided to the United States by the North Vietnamese on Saturday. She further states, "Everything we have been told has led us to believe there would be a list." (Associated Press)

Pentagon spokesperson Jerry Friedheim states, "We do expect to receive a list of POWs captured in Laos." (Associated Press)

Congressman Montgomery voices concern that some of the 311 missing in Laos should have showed up as prisoners.

In a Washington Post story, Senator Mike Mansfield says that Dr. Kissinger had advised Members of both houses that there had been no negotiations or agreements on possible aid to North Vietnam. "Before anything about this is done, Congress will be consulted," Kissinger is quoted as saying.

January 29, 1973—WASAG (Washington Special Actions Group—a National Security Council crisis management team) meeting takes place at the White House. Dr. Kissinger and another NSC official (name redacted in document for public release) are both advised by the Joint Chiefs of Staff and the Defense Department that they are "hoping" for "40 or 41" American prisoners of war in Laos.

State Department spokesman Charles Bray states, "We firmly expect to have a list of POWs to cover Laos." (Associated Press)

New York Times subheadline reads, "Pentagon Records Have 317 Missing or Held in Laos—Estimates Run Higher." The article states "the Pentagon lists 6 prisoners and 311 men missing in Laos, but officials believe the number of prisoners held by the Pathet Lao guerillas is probably substantially higher. The Times further states, "There have been conflicting statements from U.S. officials on whether North Vietnam was required to turn over a list of American prisoners held in Laos under the agreement or the accompanying protocols."

Defense Intelligence Agency Director Vice-Admiral Vincent DePoix, in a memorandum to Secretary of Defense Richardson, compiles a list of 87 "U.S. personnel listed as POW by DIA who are not on either the alive or dead lists" provided by North Vietnam and Vietcong representatives on January 27, 1973. DePoix further lists 1,277 personnel as "Missing in Action," meaning DIA did not know if these persons were alive or dead. (Breakdown on 87 POWs—21 Army, 27 Navy, 22 Air Force, 3 Marine Corps, and 14 civilians—breakdown on 1,277 MIAs—344 Army, 137 Navy, 682 Air Force, 101 Marine Corps, and 13 civilians.) In addition, the Defense Department, during this period, is listing approximately 1,100 personnel as killed in action/body not recovered in Laos, Cambodia, and Vietnam.

January 30, 1973—Testifying before the Senate Foreign Relations Committee, Ambassador William J. Porter states, "The United States has not made any firm commitment to the reconstruction of North Vietnam during the post ceasefire period beyond an understanding that we will discuss with them the possibilities of reconstruction."

Per a private agreement between Le Duc Tho and Henry Kissinger, the North Vietnamese are expected by the United States to provide a list of American POWs held in Laos in exchange for a cabled message from President Nixon concerning Article 21. When the North Vietnamese fail to produce the list of POWs, Kissinger instructs the U.S. representative to delay handing over the note from President Nixon.

January 31, 1973—President Nixon states at a press conference, in reference to U.S. aid to North Vietnam, "I cannot give you the figure because it is a matter that has to be negotiated."

Vice Director of the Joint Staff Martin Colladay recommends to the Secretary of Defense that the President request "information which the People's Republic of China might have concerning the fate of seven personnel missing in action who were lost in the vicinity of China during the Vietnam Conflict." He also recommends approaching China for the release of two officers known to be detained in China—Robert Flynn and Phillip Smith (later released on March 14-16, 1973.)

Deputy National Security Advisor Brent Scowcroft instructs U.S. negotiator Heyward Isham to deliver to Le Duc Tho a note which states:

"The U.S. side wishes to express the serious view it takes of the failure of the North Vietnamese side to produce a list of American prisoners held in Laos. . . . failure to solve this issue must have the effect of impairing the utility of Dr. Kissinger's visit to Hanoi, because it will restrict his ability to discuss positive programs."

February 1, 1973—The North Vietnamese provide a list of 9 Americans (7 military, 1 missionary, 1 civilian) and 1 Canadian which is represented as the list of American POWs captured in Laos. The list is exchanged simultaneously with a private communication to North Vietnamese Prime Minister Pham Van Dong from President Richard Nixon. The letter from President Nixon reads:

"1. The Government of the United States of America will contribute to postwar reconstruction in North Vietnam without any political conditions.

2. Preliminary U.S. studies indicate that the appropriate programs for the U.S. contribution to postwar reconstruction will fall in the range of \$3.25 billion

of grant aid over 5 years. Other forms of aid will be agreed upon between the two parties . . .

3. The U.S. will propose to the DRV the formation of a Joint Economic Commission . . .

4. To develop programs for the U.S. contribution to reconstruction of North Vietnam. In regard to other forms of aid, U.S. studies indicate that the appropriate programs could fall in the range of \$1 to \$1.5 billion . . .

A separate codicil under the heading "Understanding Regarding Economic Reconstruction Program" refers to the recommendations of the Joint Economic Commission "mentioned in the President's note" being implemented by each member "in accordance with its own constitutional provisions."

The list and letter are exchanged in Paris at 10 a.m. EST in the following manner, as described in a memorandum from Colonel Guay (the U.S. messenger) to General Brent Scowcroft, Deputy National Security Advisor:

"He (the Vietnamese messenger) went to a cabinet and produced an envelope from which he extracted what was obviously a very short list of names. I took the (Nixon) memorandum out of the envelope, and passed it to him, while he passed the list to me. When he finished reading the memorandum, I asked him if that was the total list available. He replied that was all 'they' gave him . . ."

Chinese leader Chou En-lai states that the United States is not living up fully to the terms of the agreement because it is continuing the war in Laos and Cambodia.

Dr. Henry Kissinger is interviewed by Marvin Kalb of CBS News in the evening at the White House. He points out that there is not yet a cease-fire in Laos when asked about U.S. bombing along the Ho Chi Minh trails in Laos, and "we will observe any cease-fire that is established in Laos . . . we have reason to believe there will be a formal cease-fire in Laos soon."

Kalb asks, "What about American prisoners who might be held in Laos, those missing in action? Kissinger responds, 'We received today a list of prisoners that are being held in Laos. We are now examining it. It doesn't look to us as if it could be complete, and we are querying the North Vietnamese to see whether they have any supplementary information . . . the list was handed to us as a list. It was not handed to us with the explicit comment that this is the entire list. And since there are several hundred unaccounted for, the relationship between the number that was handed to us and the number that is missing seems to be smaller in Laos than it is in Vietnam, and we have queried Hanoi about this discrepancy.'"

Dr. Kissinger informs Marvin Kalb, in response to a question, that he intends to discuss a U.S. reconstruction program during an upcoming trip to Hanoi. He further states, in response to a question on the amount of aid, that "any projection we make would be fully discussed with the bipartisan leadership and fully discussed in public before it became our policy."

February 2, 1973—At 4:30 p.m. EST, the following message is delivered to the North Vietnamese Prime Minister from President Nixon, per instructions to Colonel Guay from General Brent Scowcroft:

"The list of American prisoners held in Laos which was presented in Paris on February 1 is unsatisfactory. U.S. records show that there are 317 American military men unaccounted for in Laos and it is inconceivable that only 10 of these men would be held prisoner in Laos. There can be no doubt therefore that the implementation of any American undertaking is related to the satisfactory resolution of this problem. It should also be pointed out that failure to provide a complete list of prisoners in Laos or a satisfactory explanation of the low number thus far presented would seriously impair the mission of Dr. Kissinger to Hanoi."

Roger Shields, Assistant for POW/MIA Matters at the Pentagon sends a memorandum to Congress emphasizing that "we consider each of our missing equally as important as our prisoners who are returning. The Secretary of Defense and all Defense Department personnel will do their best (accounting for missing military personnel.)"

February 5, 1973—An EC47, with a crew of 8 USAF personnel on board, is shot down over Laos. At the time, both National Security Agency and Defense Intelligence Agency personnel express the view, based on intelligence reports, that four crewmembers may have been captured.

February 6, 1973—At a WASAG White House meeting, Dr. Kissinger is informed by a State Department official (name redacted from document), "I will have a chart

and lists of POWs and MIAs that we can raise with them the first day (in Hanoi)." Kissinger responds, "That's good."

Brigadier General Russell Ogan, Director of the Defense Department POW/MIA Task Force forwards to Deputy Secretary of State William Sullivan "twenty folders of men who we have reasonably hard information on that were taken prisoner but did not show up on any DRV or PRG lists to date. These will be used as examples by Ambassador Sullivan while in Hanoi to substantiate the U.S. claim that the lists provided are not correct."

Defense Intelligence Agency Director DePoix prepares talking points for Henry Kissinger on U.S. POWs in Laos. He indicates that the PLF February 1 list "does not represent U.S. POWs captured by the Pathet Lao," and that the list consists of personnel "captured by the North Vietnamese in Laos rather than by the Pathet Lao." DIA further states that approximately 215 men from the 350 U.S. personnel missing in Laos "were lost under such circumstances that the enemy probably has information regarding their fate."

February 8, 1973—Testifying before the House Foreign Affairs Committee, Secretary of State Rogers states, "We have not made any commitment for any reconstruction or rehabilitation effort. We did say we would be helpful."

February 9, 1973—Secretary of Defense Richardson approves a Joint Chiefs of Staff plan to set up a Joint Casualty Resolution Center in Laos to search for both POWs and MIAs.

DRV Prime Minister Pham Van Dong signs a decree establishing a "Vietnamese Office for Seeking Missing Personnel" to "implement Article 8b of the Agreement on Ending the War and Restoring Peace in Vietnam."

February 11, 1973—A New York Times Editorial expresses "distress" that the United States "is still conducting bombing raids in Laos and Cambodia."

February 10-12, 1973—Dr. Kissinger visits Hanoi, accompanied by Deputy Secretary of State, William Sullivan. Kissinger meets with Pham Van Dong, Le Duc Tho, Nguyen Duy Trinh, and Nguyen Co Thach for 3½ hours in Hanoi on February 10 and continues the meetings on the 11th and 12th. He arrives in Hong Kong on the 13th on his way to Peking.

In his memoirs, Dr. Kissinger states he presses 80 cases of Americans last known alive, but not on the NVN lists. North Vietnamese officials reportedly respond that the cases were complex, and they would have to gather information from the field.

February 12, 1973—North Vietnam releases 135 U.S. POWs.

February 14, 1973—The United States and North Vietnam issue a joint communique to create a joint economic commission to oversee rebuilding Vietnam with U.S. dollars. The communique lists no specific figures for U.S. postwar aid. The communique is a result of Dr. Kissinger's Hanoi visit.

White House Press Secretary Ronald L. Ziegler states, in reference to the joint communique, that "Dr. Kissinger did not discuss the scope of potential U.S. aid (while in Hanoi)" and that any dollar figure for aid "will be subject to consultation with Members of Congress whose approval will be needed for any appropriation."

There is no immediate reaction to the joint communique from Congress due to the recess on Capitol Hill.

February 15, 1973—Henry Kissinger visits Peking, China where it is reported that Chinese leaders demand the U.S. cease all military activities in Indochina.

Secretary of State William P. Rogers asks for congressional approval of postwar aid to North Vietnam at a news conference and predicts that reluctant legislators will "in the end" be persuaded to make a "small investment" in postwar reconstruction to help all of Indochina.

He states, "As far as the Administration is concerned, we want very much to get on with the business of peace and reconstruction. And I can't think of anything that gets us off to a better start than to watch these returning POWs. If that doesn't make American proud, then I don't know what will."

February 16, 1973—The Defense Intelligence Agency prepares a memorandum which is forwarded to the Secretary of Defense entitled "Debriefing Summary Report #1" which identifies three U.S. personnel "listed as missing who may be prisoners" (according to the debriefings of returnees).

February 17, 1973—Soth Petras, the Pathet Lao spokesman in Vientiane, Laos, states that the Pathet Lao is holding American prisoners of war who will be released after a cease-fire goes into effect in Laos. "If they were captured in Laos, they will be returned in Laos," he tells UPI. UPI further reports that this contradicts Dr. Kissinger's statement that the North Vietnamese had agreed to return American prisoners from Laos in Hanoi. The American Embassy states that this is the first reference to American POWs in Laos that have been made by the Pathet Lao since the signing of the Paris Peace Accords. UPI further reports that Petrosy

said the Pathet Lao leadership had a detailed accounting of prisoners and where they were being held and that both sides in the cease-fire negotiations are ready to exchange prisoners once the fighting ends.

Additionally, UPI reports "State Department officials said they believe that the list of nine persons submitted by North Vietnam was incomplete and that there are more Americans held by Laotian Communists."

The Commander in Chief of the Pacific, Admiral Gayler, issues an announcement stating that U.S. aircraft, including B-52s and F111 fighter bombers, are continuing bombing operations in South and Central Laos. (UPI) North Vietnamese Foreign Minister Trinh denounces the U.S. air strikes in Laos at a speech in Paris.

February 18, 1973—North Vietnam releases 20 U.S. POWs as a gesture following the visit by Dr. Kissinger to Hanoi on February 10-13th.

February 20, 1973—"Debriefing Summary Report #2" from the Defense Intelligence Agency to the Secretary of Defense lists "two additional personnel listed as missing who may be prisoners." (Both of these individuals remain unaccounted for.)

February 21, 1973—"The Agreement on Restoring Peace and Achieving National Concord in Laos" is signed between the Pathet Lao and the Royal Laotian Government. Chapter II, Article 5 of the Agreement provides for the release of "all persons, regardless of nationality, who have been captured and detained" in Laos "within 60 days after the setting up of the Provisional National Union Government and the National Political Consultative Council. After all those who were captured have been returned, each side has the duty to gather information on those missing during the war and report the information to the other side." Article 10(c) states, "the two parties take note of the declaration of the U.S. Government that it will contribute to healing the wounds of the war and to postwar reconstruction in Indochina. The Provisional National Union Government will hold discussions with the U.S. Government in connection with such a contribution regarding Laos."

U.S. Embassy Charge John Gunther Dean in Vientiane, Laos meets with Pathet Lao representative Soth Petrosy. He is informed that the Pathet Lao "does hold foreign prisoners, including Americans." Petrosy states he will send a message to Pathet Lao headquarters in Sam Neua asking for information on the number and names of American POWs held by the Pathet Lao. (Source: POW/MIA Task Force Report dated March 12, 1973.)

Testifying before the Senate Foreign Relations Committee, Secretary of State Rogers "refuses to rule out reconstruction aid to North Vietnam by presidential order if Congress fails to appropriate the funds." Three times during his testimony, he calls for "restraint" by Members of Congress in making adverse comments on the aid issue, at least until all American prisoners are released. (UPI)

George Aldrich, Legal Advisor to the American delegation to the Paris Peace negotiations prepares a memorandum shortly after the Laos cease-fire is concluded entitled, "Interpretations of the Agreement on Ending the War and Restoring Peace in Vietnam." Under the heading, "U.S. Prisoners in Laos," Aldrich notes an earlier Vietnamese assurance that "all U.S. military and civilian prisoners detained in Laos shall be released no later than 60 days following the signature of the Agreement (with North Vietnam.) The DRV has also assured us that it would be responsible for making the necessary arrangements with the Pathet Lao." Aldrich further notes that Article 8(b) of the agreement with North Vietnam on accounting for the missing in action "does not apply to Laos. Therefore it will be necessary to conclude further arrangements for tracing the missing in Laos. This has been done in Laos by Article 5 of the cease-fire agreement, but further agreements may be necessary between the United States and the Government of Laos."

Following the signing of the cease-fire in Laos, Henry Kissinger sends a message to U.S. Ambassador Godley in Vientiane while still en route from Peking, China back to Washington, DC. The message states "Much appreciate good news about cease-fire in Laos, and await with interest additional report concerning its terms. Your action with Vogt (Phoumi Vongvichit) is well taken since air action seems to be the only language the Communists understand. We, of course, remain interested in rapid return of any U.S. prisoners held by Communists in Laos. Soth Petrosy is reported to have told UPI recently that there are U.S. prisoners in Pathet Lao hands. Suggest you have Dean follow up his recent conversation with Soth by seeking detailed information concerning those held and by proposing arrangements for their early release."

February 25, 1973—Dr. Kissinger, in an interview with Barbara Walters for NBC regarding over 1,300 personnel still listed as MIA states, "I cannot really believe that the North Vietnamese would hide prisoners on us." Kissinger states he will not appear under oath before Congress to discuss the aid package or his negotiations. He also says that much of his first day in Hanoi on February 10 was devoted to the

subject of POWs and MIAs, and that he presented in detail the U.S. analysis of the missing in action, "particularly where we had some evidence that a flier had parachuted, for example, or where we had collateral evidence that a person might have been taken prisoner." Finally, in reference to where the money for economic aid to North Vietnam would come from, Kissinger states, "We will present where we think the money should come from, and then the Congress will have to make the decision. It is our judgement that some program is necessary."

February 26, 1973—The International Conference on Vietnam opens in Paris, with various countries extending formal congratulations to the United States and North Vietnam for the signing of the Paris Peace Agreement on January 27, 1973. North Vietnamese Foreign Minister Nguyen Duy Trinh again denounces U.S. air strikes in Laos and Cambodia.

February 28, 1973—Secretary of State Rogers meets in Paris with the foreign ministers of the three Vietnamese parties to the peace agreement.

March 2, 1973—Secretary of State Rogers holds a news conference in Paris, stating that he had received assurances that U.S. POWs would be released by Hanoi in four phases in accordance with the peace agreement.

President Richard Nixon, at a News Conference, states, "With regard to Laos, the agreement there (Feb. 21 agreement with Pathet Lao) was made by the Royal Laotian Government and it is an agreement which we, of course, supported and we accept . . . what will make the cease-fire work is an unequivocal provision in the agreement that we made and that is for the withdrawal of all foreign forces from Laos."

March 4-5, 1973—North Vietnam releases 133 U.S. POWs.

March 13, 1973—WASAG Meeting takes place at White House. The subject of U.S. POWs in Laos is discussed as follows:

STATE (name redacted): "You won't complete the withdrawal until the Lao prisoners are released?"

KISSINGER. "Yes, that's right."

DEFENSE (name redacted). "How many are there in Laos?"

NSC STAFF (name redacted). "They've told us they hold more American prisoners than the eight on the list we received from North Vietnam."

KISSINGER. "They have? They told us they hold more than eight?"

NSC STAFF. "That's right."

STATE. "We've had contact with the Pathet Lao several times."

KISSINGER. "And they have admitted they hold more?"

STATE. "Yes."

KISSINGER. "I didn't know that. How many more?"

STATE. "They haven't said. They've been giving us the runaround on the details. This is something you may want to keep in mind. You may want to notify the DRV that the Pathet Lao have told us this and ask them to be more forthcoming on POWs in Laos."

DEFENSE (to Kissinger). "Will you handle this through your channel?"

KISSINGER. "Yes."

Secretary of Defense Elliot Richardson queries Assistant Secretary of Defense Lawrence Eagleburger on Laos POWs.

March 14, 1973—The U.S. sends a message to the North Vietnamese asking for an explanation of the statements made by Soth Petrosy regarding U.S. POWs being held in Laos. No response to the message is received.

On March 14, President Nixon approves a request from Henry Kissinger to plan "for a 2-3 day series of intensive U.S. air strikes against the trail area of Southern Laos to be conducted immediately after release of the third increment of POWs is completed on March 16. Your final decision would be given after the POW release and in light of developments between now and then." The purpose of the proposed bombing is described in a memorandum from Kissinger to Nixon as a "response to continued North Vietnamese infiltration and logistics activity in the South."

March 15, 1973—Secretary of State William Rogers instructs U.S. Ambassador Godley in Vientiane, Laos to "single out the Soviet Ambassador for the full treatment on POW matters and inform him that we continue to hold North Vietnam to its commitments on releasing all U.S. POWs in Laos by March 28 (end of 60-day period) and will not tolerate any delays."

The U.S./North Vietnam Joint Economic Commission holds its first formal meeting in Paris to begin discussions on carrying out the U.S. commitment to provide reconstruction assistance to North Vietnam.

March 16, 1973—Secretary of Defense Richardson holds a press conference while visiting a military hospital for returning POWs at Portsmouth, VA. In response to a

question, he states that so far "very few" of the POW debriefings have provided information on other POWs, and that roughly 30 POWs had apparently died in captivity according to the returnees debriefed to date.

March 14-16, 1973—North Vietnam releases 134 U.S. POWs. China releases 2 U.S. POWs.

March 17, 1973—Secretary of Defense Richardson is reported to have said on television that it is unlikely any of the men missing in action are alive. (Source: message from Col. Sadler dated March 17, 1973.)

March 19, 1973—The DRV representative to the POW subcommission of the Four Party Joint Military Commission informs the U.S. representative that the Pathet Lao were responsible for the release of American prisoners and gives no assurances that this would take place by the agreed date of March 28, 1973 (the end of the 60-day period specified in the Paris Agreement on Ending the War and Restoring Peace in Vietnam.)

Assistant Secretary of Defense Eagleburger sends a memorandum to Secretary of Defense Richardson. He states, "there is cause for some concern regarding the release of men who may be held in Laos and accounting of men missing in action throughout Indochina. The situation in Laos is unclear . . . measures are needed to secure lists, arrange for the release of prisoners and secure information on the missing . . . in the matter of the 9 men (on the DRV February 1 Laos list), we should be prepared to halt the redeployment of remaining troops and cease all actions with regard to mine-sweeping if their names are not included on (Pathet Lao) lists of men to be released." In the margin next to this line "troop back already planned" is handwritten.

Eagleburger continues, "There is great anxiety that the U.S. Government may not be giving the same priority to securing information to resolve MIA statuses as has been given to return of prisoners. It appears that it may be necessary to apply the same type of overt pressure on behalf of MIAs as has been applied on behalf of POWs. At the appropriate time when discussion of economic aid to the DRV has advanced far enough to be a real issue, we should make any arrangements for such aid contingent on satisfactory progress in MIA resolution. Our returning prisoners report that economic aid is a matter of substantial interest to the DRV.

Finally, in reference to mistreatment of returning POWs, Eagleburger states, "Public disclosure of mistreatment may adversely affect U.S. Government plans regarding economic aid to Hanoi. Heavy public criticism of Hanoi could also interfere with the resolution of MIA cases . . . a recommended course of action will be presented in the near future."

March 20, 1973—Henry Kissinger sends a message to Le Duc Tho which reads, "The U.S. side has become increasingly disturbed about the question of American prisoners held or missing in Laos . . . the U.S. side has made clear on many occasions that the list of only nine American prisoners presented belatedly by the Pathet Lao is clearly incomplete. There continues to be no satisfactory explanation for the smallness of the list nor any assurance that further efforts will be forthcoming . . . the U.S. side expects an immediate response to this message and the firm assurance of the DRV that it will live up to its solemn responsibilities. Failure to do so would have the most serious consequences. Certainly, the U.S. side cannot be expected to complete its withdrawals from South Vietnam until this closely linked question is satisfactorily resolved."

March 21, 1973—At 6:45 a.m., the Pentagon receives a call from General Woodward in Vietnam, head of the Four Party Joint Military Commission, stating that at 6 p.m. Saigon time, the North Vietnamese had made an offer to release all U.S. prisoners in their hands by March 25, provided the U.S. withdraws its forces simultaneously by March 25.

At 1:25 p.m., General Brent Scowcroft, Deputy National Security Advisor to President Richard Nixon, telephones Admiral Daniel J. Murphy, Military Assistant to Secretary of Defense Richardson. He informs Admiral Murphy that President Nixon has decided not to accept the proposal from the North Vietnamese.

Admiral Murphy informs Secretary of Defense Richardson that "the President decided that we would not accept the DRV proposal to return all U.S. POWs by March 25, providing remaining U.S. troops departed by that date. The President is adamant about insuring the return of all POWs, including the ten captured in Laos, before we continue the redeployment of U.S. troops."

General Brent Scowcroft at the White House "dictates" to Admiral Murphy what General Woodward should say to the North Vietnamese at the next meeting in response to the proposal—"The United States will complete the withdrawal of its military forces from South Vietnam in accordance with the terms of the Agreement and coincident with the release of all American prisoners held throughout Indochina."

By 11 p.m. EST, General Woodward's assistant General Wickham has sent a letter to the North Vietnamese consistent with General Brent Scowcroft's dictation. The text reads, in part, The withdrawal of U.S. military forces . . . will be completed in accordance with terms of the agreement and coincident with the release of all, repeat all, U.S. POWs held throughout Indochina. Withdrawal of U.S. forces will commence after the United States has been provided a complete list of all U.S. POWs, including those held by the Pathet Lao, as well as the date, time, and place of release.

Defense Intelligence Agency Acting Director General John Deane sends to the Chairman of the Joint Chiefs of Staff a memorandum entitled, "Information Pertaining to POW/MIA Situation in Laos." The memorandum had been prepared by DIA at the request of Roger Shields, Assistant to the Assistant Secretary of Defense handling POW/MIA matters, and had also been sent to the Secretary of Defense. The memo updates an earlier version which had been sent to Kissinger on February 6. It again notes that there are approximately 215 men out of 350 missing or captured in Laos where "the enemy probably has information regarding their fate."

It states that there are "several" MIAs "known to have been captured" who do not appear on the February 1 list, and that the ones on the earlier list had all been captured by the North Vietnamese and were presently in Hanoi awaiting release. The memo further notes statements by Pathet Lao Prince Souphanouvong during the war regarding U.S. POWs in Laos, and several statements, including recent ones, by PI Representative Soth Petrosy that they were holding American POWs. The memo concludes, "there is evidence that the Pathet Lao have information on captured/missing U.S. personnel and should be able to provide a list of alive U.S. POWs, in addition to information on the fate of many others."

Assistant Secretary of Defense Eagleburger in a memorandum to Secretary of Defense Richardson advises against a proposal by Assistant Secretary of Defense for Public Affairs Jerry Friedheim proposing that returning POWs hold a press conference on their experiences "after the last known POWs have been released." Eagleburger refers to "dangers already inherent in prisoners' public comments on their treatment. These include: Possible adverse impact on the release of men who may be held in Laos. Satisfactory resolution of the MIA issue . . . the men (returnees) generally feel a high degree of responsibility for men not yet released and those missing in action. They can be expected generally to accept and abide by the rationale for withholding public comment."

March 22, 1973—U.S. Ambassador to Laos, Mac Godley, sends cable to Secretary of State stating Embassy belief that the Lao Patriotic Front holds more U.S. POWs throughout Laos than those names which appeared on the DRV February 1 list. Embassy states, however, that they should concentrate first on getting the 9 POWs back who were on the North Vietnamese list.

On the same day, U.S. Embassy in Laos sends demarche to Pathet Lao stating they expect back more U.S. POWs than those on the February 1 list.

Admiral Moorer, Chairman of JCS, sends cable to Commander in Chief of the Pacific ordering halt to U.S. troop withdrawal until the "United States has been provided with a complete list of all U.S. POWs including those held by the Pathet Lao."

March 23, 1973—U.S. officials in Vientiane, Laos tell UPI they are concerned that the Communists plan to hold back POWs in Laos as pawns in the continuing struggle in Indochina. UPI quotes unnamed "U.S. sources" in Vientiane as saying that as many as 100 POWs may still be alive in Laos, and that the conclusions are based on intelligence reports and crash site inspections. (UPI)

Admiral Moorer rescinds his order and instructs General Woodward to proceed with troop withdrawals, and to try and get "precise information and understanding on the times and place of release of the prisoners on the list provided February 1." Moorer states to Woodward, "Of course, we intend to pursue the question of other U.S. personnel captured or missing in Laos following the release of the men on the February 1 list."

Lt. Colonel Richard Secord and Rear Admiral Bigley draft memorandum for Assistant Secretary of Defense Eagleburger which is sent to Secretary of Defense Richardson. Memorandum states, in part, "DIA lists approximately 350 U.S. military and civilians as missing or captured in Laos. DIA concludes that the Lao Patriotic Front may hold a number of unidentified U.S. POWs, although we cannot accurately judge how many. The American Embassy, Vientiane, agrees with this judgement. There appears to be a need for a well-orchestrated plan for solving the problem of our Laos POWs and MIAs. U.S. air strikes and Lao and Thai irregular offensive operations could be resumed in Laos in order to force the release of our prisoners in Laos . . ."

March 24, 1973—In a memorandum to Admiral Daniel J. Murphy, Military Assistant to the Secretary of Defense, the Defense Department Comptroller's office lists 222 U.S. personnel as captured and 1,166 U.S. personnel as missing in action.

March 25, 1973—North Vietnamese officials inform U.S. officials in Saigon that the U.S. demand that it release POWs captured in Laos "is beyond the jurisdiction of the Agreement (ie: Paris Peace Accords)."

March 26, 1973—Chief spokesman for the North Vietnamese delegation to the Four Party Joint Military Commission, Bui Tin, states the following to press, after receiving cabled instructions from Hanoi; "The Pathet Lao have assured us that the American POWs they hold will be released. They are making preparations for the release. It is for this reason we are insisting that the withdrawal of U.S. troops and the release of the prisoners take place with no relation to the POWs held by the Pathet Lao."

North Vietnamese chief representative to the Commission, Lt. General Tran Van Tra states to General Woodward, the U.S. representative; "We clearly reiterate our position that the question of troop withdrawals being linked to U.S. persons captured in Laos is within the sovereign power of Laos, and beyond the competence of the Four Party Joint Military Commission."

Admiral Moorer, Chairman of the Joint Chiefs of Staff, proposes to Secretary of Defense Richardson that the U.S. Embassy in Laos take measures to get U.S. teams (JCRC) set up in Laos.

March 27, 1973—U.S. Embassy officials in Vientiane, John Gunther Dean and Richard Rand, hold meeting with Soth Petrosy, the Pathet Lao spokesperson in Laos. A cable on the meeting is sent to "provide details of discussions regarding other U.S. POWs which Pathet Lao may hold." According to the cable, Petrosy agrees to forward U.S. Embassy request for a full accounting to PL headquarters in Sam Neua.

U.S. Ambassador to Laos, Mac Godley, sends cable to Secretary of State Rogers stating their continued belief/hope that Pathet Lao hold other U.S. prisoners.

Walter Cronkite broadcasts report that some 200 U.S. POWs are thought to be alive in Laos. (Source: State Department cable.)

At 11:30 p.m., Washington time, Hanoi releases the 7 U.S. military personnel and 2 U.S. civilians from the DRV February 1 list of POWs from Laos.

March 28, 1973—North Vietnam releases 134 U.S. POWs in Hanoi between 2 and 3:45 a.m. Washington time. The PRG reports that a region in South Vietnam had "just reported a U.S. POW as captive" named Robert White (lost in 1969).

Secretary of Defense Richardson sends memorandum to Dr. Kissinger entitled, "Subject: U.S. POW/MIA personnel in Laos." The memorandum states, "I am concerned over the situation in Laos regarding our men who are still being held prisoner or missing. To date, there has been no accounting of U.S. personnel missing in Laos other than the February 1, 1973 list of ten who were probably all captured in Laos by the North Vietnamese rather than the Pathet Lao. As you know, there are over 350 U.S. personnel listed by DIA as missing or captured in Laos."

Richardson recommends diplomatic moves by the President, specifically, "after the recovery of the last prisoners from North Vietnam, Hanoi should be advised unequivocally that we still hold them responsible for the return of all POWs being held in Indochina . . . all U.S. reconstruction assistance should be described as wholly dependent upon the accounting and/or release of U.S. prisoners being held in Laos." Richardson further recommends that Ambassador Godley in Laos be instructed to tell the Pathet Lao representative "that we know they hold U.S. prisoners, and we demand their immediate release . . ." Finally, Richardson states that if the Pathet Lao do not respond favorably, "intensive and obvious tactical air reconnaissance of North and South Laos should commence. Additionally, the movement of a new carrier task force in the waters off Vietnam should be publicly announced."

WASAG meeting takes place at White House.

March 29, 1973—Dr. Kissinger tells U.S. Congressmen there have been no U.S.-Hanoi discussions on firm proposals for aid to North Vietnam (Associated Press).

President Richard Nixon, in a televised address to the Nation, announces from the Oval Office that "All of our American POWs are on their way home."

March 30, 1973—Assistant Secretary of Defense Eagleburger in a memorandum to the Secretary of Defense states "at present the situation in Laos is not clear concerning efforts to account for our men missing in action . . . it will be necessary to secure the agreement of both Lao parties to permit Joint Casualty Resolution Center operations in Laos."

March 31, 1973—Hanoi proposes private meetings between Le Duc Tho and Dr. Kissinger to "resolve difficulties or snags which may arise in the future in the implementation of the agreement."

Admiral Murphy, Military Assistant to the Secretary of Defense, receives a report from the Defense Department Comptroller's Office which lists "81" U.S. military personnel as "current captured."

April 1, 1973—Army Captain Robert White is released in the South. He is the last POW to be released through Operation Homecoming. (He arrives in the U.S. on April 4.)

April 3, 1973—During testimony before the House Defense Appropriations Subcommittee, Secretary of Defense Richardson states, "If after July 1 (the start of the new fiscal year), there is a firm ceasefire in place, there would be savings that could be applied to aid to North Vietnam. But we would have to come back to Congress for approval."

Reverend Paul Lindstrom of Illinois reports to the Manchester, NH union leader that according to military, CIA, State Department, and South Vietnamese intelligence sources, there are at least 200 American POWs still held in Laos, Cambodia, and China. He cites unnamed U.S. Government sources as telling him there were 121 POWs in Laos. (Lindstrom is also credited with accurately reporting in advance the release of the Pueblo crew in 1968 and three POWs in 1969, as well as discussions from a secret Kissinger trip to Moscow.)

State Department spokesperson John King states, "There is no credible information available to us which would tend to support these charges (from Lindstrom)." (Associated Press)

Secretary of Defense Richardson sends a note to Secretary of State Rogers stating, "While there is still some question on whether any of our men are still held, particularly in Laos, our attention must now be focused primarily on the difficult task of accounting for the missing in action."

A Joint State/Defense limited distribution message is subsequently sent to the Embassy in Laos from Secretary of Defense Rogers forwarding negotiating points in support of a Joint Casualty Resolution Center effort being established in Laos.

April 4, 1973—The Four Party Joint Military Team, established under the Paris Peace Accords, holds its first meeting to discuss accounting for 1,328 Americans listed as missing in action and 1,100 Americans listed as killed in action/body not recovered.

Roger Shields, assistant to the Assistant Secretary of Defense for International Security Affairs (Eagleburger), responsible for POW/MIA issues and head of the Pentagon's POW/MIA Task Force, meets with President Richard Nixon at the White House to discuss the subject of returned and unaccounted for American POWs. (Source: Shields letter.)

April 5, 1973—U.S. Ambassador to Laos, Mac Godley, sends cable to Secretary of State Rogers stating they were reluctantly approaching the conclusion that the Pathet Lao did not hold additional prisoners, and that it was time to change the focus to accounting for MIAs as opposed to searching for POWs. (Source: State Department cable.)

The last message to Washington from the Operation Homecoming Center at Clark Air Force Base on preliminary information from returned POWs is relayed to Washington. Under the government category "POWs who may have died in captivity," the number of POWs is "156," according to information provided by the returnees in the debriefs. The Government does not list a separate category for POWs still in captivity.

Dr. Kissinger sends message to Le Duc Tho proposing a meeting in the first week of May "in order to arrest any further deterioration" concerning the cease-fire agreement.

U.S. Senate votes 88-3 against any aid to North Vietnam unless Congress specifically approves it. During floor debate, several Senators take the floor to argue against any aid to North Vietnam. (Congressional Record.)

April 6, 1973—U.S. Senator Ed Brooke meets with Pathet Lao representative Soth Petrosy for over 2 hours to discuss reconstruction assistance to Indochina, and POW/MIAs. Embassy cable reports that Senator Brooke is told by Petrosy that the Pathet Lao hold no more American prisoners in Laos.

April 7, 1973—ABC broadcasts report that some American POWs in Laos had been summarily executed. U.S. Army Attache Office in Vientiane, Laos files cable that report is erroneous. The cable reports that the source of the ABC piece was a North Vietnamese official who was speculating on what might have happened to U.S. POWs in Laos, and, as such, there was no basis in fact to the story.

A Saigon newspaper reports that recently released South Vietnamese POWs are reporting that there are still American POWs in camps close to theirs at Cao Bang, Lang Son, and Thai Nguyen.

An Associated Press account states, "There is a widely held belief among U.S. officials in Indochina that American POWs may be held in Communist jungle and mountain camps."

Admiral Murphy, Military Assistant to the Secretary of Defense, received a Defense Department Comptroller report for the week ending April 7, 1973 which lists "80" U.S. military personnel as "current captured."

April 8, 1973—General Alexander Haig, Vice Chief of Army, departs for Vietnam on 5 day fact-finding mission.

April 10, 1973—Roger Shields sends memorandum to Assistant Secretary of Defense Eagleburger which notes the "recent peace agreements signed in Vietnam and Laos and the return of our prisoners of war previously held by the Communist side in these countries." The memorandum further recommends the phase-out of the Defense Department's POW/MIA Task Force.

April 11, 1973—Roger Shields meets again with President Richard Nixon and also General Brent Scowcroft to discuss the subject of returned and unaccounted for American POWs.

April 12, 1973—The Defense Department sponsors a press conference on POW/MIA issues in which Roger Shields states, "We have no indication at this moment that there are any Americans alive in Indochina." Associated Press and UPI stories include headlines, "All U.S. POWs Free, Pentagon Maintains," and "POW Unit Boss: No Living GIs Left in IndoChina." Dr. Shields further states that with interviews of returning POWs almost complete, none of the MIAs have been changed to POW status.

Rumors that U.S. servicemen were still held in Laos "do the families a disservice," says Shields. In response to reports that airmen in Laos had been executed, Shields says, "There is no basis in fact for this story."

Prior to the DOD news conference, Deputy Secretary of Defense Clements states to Dr. Shields, in reference to remaining POW/MIAs, "You didn't hear me, they're all dead."

April 14, 1973—Records show President Nixon engaged in incessant meetings and telephone calls concerning Watergate.

Dr. Kissinger meets with Leonard Garment, Special Consultant to the President, and learns how the Watergate break-in "might touch the President himself." In his memoirs, Dr. Kissinger says he was "appalled." (Source: Years of Upheaval, Henry Kissinger.)

U.S. Ambassador in Saigon, Ellsworth Bunker, sends message to Secretary of State outlining priorities of the U.S. delegation to the Four Party Joint Military Team in carrying out PPA Articles dealing with POW/MIAs. Bunker references "informal Washington instructions" that first priority will be recovery of remains of those personnel listed as died in captivity on the January 27, 1973 list. Second priority is described as "seeking information from the other side on specific MIA persons who, according to U.S. records, were believed captured alive. Bunker further states that DIA has provided folders on 80 persons in this category. Bunker lists the third priority as negotiating a process for air and ground search of crash sites.

DOD Comptroller report to Admiral Murphy lists "75" U.S. military personnel as "current captured."

April 15, 1973—General Alexander Haig reports to Dr. Kissinger from Southeast Asia on his fact-finding mission.

North Vietnam sends message agreeing to meeting between Dr. Kissinger and Le Duc Tho after May 15, in Paris.

President Nixon instructs Dr. Kissinger to call a WASAG meeting to consider U.S. options (concerning implementation of Paris Peace Accords).

Henry Peterson, head of Justice Department Watergate inquiry, urges President Nixon to fire his aides, Haldeman and Ehrlichman. (Source: Kissinger memoirs.)

April 16, 1973—WASAG meeting takes place at White House. Decision is made to bomb in Laos to counter North Vietnamese offensive in northern Laos.

On the same day, American B-52s and fighter planes strike targets in Laos.

Secretary of Defense Richardson, in a memorandum to the Chairman of the Joint Chiefs of Staff states, "With the arrival of the last returned servicemen in the United States on April 4, 1973 (Robert White—released April 1), the repatriation of our prisoners of war previously listed as captive by the other side has come to an end. Please convey my personal appreciation to all of your personnel who participated in Homecoming."

April 17, 1973—Bombing attacks in Laos continue.

Secretary of Defense Richardson holds news conference and describes U.S. attacks as response to flagrant violations of the Laotian cease-fire agreement by the North Vietnamese.

WASAG meeting takes place at White House.

Joint Chiefs of Staff recommend prolonged bombing campaign in Laos. Dr. Kissinger recommends waiting for further provocation before resuming bombing.

Dr. Kissinger sends message to North Vietnam agreeing to meeting with Le Duc Tho after a preparatory meeting between Nguyen Co Thach and Deputy Secretary of State William Sullivan is arranged.

April 19, 1973—The U.S.-North Vietnam Joint Economic Commission meets to continue discussions of U.S. reconstruction assistance to North Vietnam. The U.S. suspends the talks following the meeting. (Source: FBIS reports.)

April 20, 1973—Hanoi accepts preliminary meeting between Nguyen Co Thach and Deputy Secretary of State William Sullivan.

April 21, 1973—Dr. Kissinger informs President Nixon of Hanoi's message agreeing to the meetings.

According to his memoirs, Dr. Kissinger holds discussion with President Nixon on upcoming NSC meeting which had been planned to discuss the U.S. bombing campaign in Laos. According to Dr. Kissinger, that NSC meeting never happens due to Watergate turmoil.

April 25, 1973—Soth Petrosy, Pathet Lao spokesperson, is alleged to have told an Associated Press news correspondent that there were no American POWs in Laos.

Assistant Secretary of Defense Eagleburger sends memorandum to the Secretary of Defense asking him to "phase out the POW/MIA Task Force." The memorandum further notes that Eagleburger has been serving as Chairman of the DOD Prisoner of War Policy Committee and had primary staff responsibility for the DOD Prisoner of War/Missing in Action Program.

April 29, 1973—President Nixon phones Dr. Kissinger in New York from Camp David to inform him he has asked for resignations from Haldeman and Ehrlichman, and had received a resignation from U.S. Attorney General Richard Klienendienst. John Dean was also being fired. Nixon asks Dr. Kissinger not to resign. (Source: Kissinger memoirs.)

May 1, 1973—Secretary of Defense Richardson signs the memorandum proposed by ASD Eagleburger on April 25, to phase out the POW/MIA Task Force. (Note: The POW/MIA Task Force at the Pentagon was set up in February 1971.)

May 3, 1973—Eagleburger begins implementing Richardson's memorandum to phase out the POW/MIA Task Force. (Source: May 3, Eagleburger memorandum.)

May 4, 1973—The Defense Department POW/MIA Task Force prepares an internal question and answer memorandum for Assistant Secretary of Defense for International Security Affairs Robert Hill (replaced Eagleburger) in preparation for May 5 testimony before a Congressional committee—the memorandum states:

"Question. Do we have any reason to believe that additional U.S. personnel are held in Laos?

Answer. It is possible . . . however, we have been unable to develop any substantive information which would support this possibility.

Question. Are there any U.S. prisoners still being held in Southeast Asia?

Answer. There is no specific knowledge which indicates any of our men are now alive in Southeast Asia. We do not believe that the list received from the other side constitutes a complete and accurate accounting of our men, especially with regard to Laos. As of April 23, 1973, there were a total of 1,335 men who have not returned from Southeast Asia."

May 1973—In early May, Colonel Bernie Russell, U.S. Head of the Four Party Joint Military Team in charge of accounting for MIAs, is asked by the North Vietnamese whether anything is being done about U.S. aid to Vietnam. Colonel Russell informs them, after checking with the U.S. side, that nothing is being done. He later observes that North Vietnamese cooperation on MIAs virtually ceases from that point on.

May 5, 1973—A Defense Department listing of "unaccounted for military personnel who are unaccounted for in Southeast Asia prepared from casualty reports as of May 5, 1973" lists 1,321 MIAs. (Note: This figure does not include the 1,100 U.S. personnel listed as killed in action/body not recovered.

May 7, 1973—Pathet Lao soldiers shoot down and capture Emmet Kay, an American pilot of an Air America aircraft in Laos. (Note: Kay is not released by the Pathet Lao until September 1974.)

May 18, 1973—A Defense Intelligence Agency "Casualty Data Summary as of May 18, 1973" lists "65 prisoners of war not accounted for on any enemy lists" and

"1,238 personnel missing in action not accounted for on any enemy lists." (Total 1,303.)

May 19, 1973—The DOD Comptroller's Office, in a memorandum, for the Secretary of Defense lists 69 U.S. military personnel as "current captured" and 1,113 personnel as "current missing." (Total 1,182.)

May 21, 1973—Brig. General Robert C. Kingston, Commander of the Joint Casualty Resolution Center in Thailand, tells the Associated Press there is no indication that any Americans listed as missing in action are still alive.

Roger Shields meets with Deputy Secretary of Defense William Clements and discusses the subject of whether there are any U.S. POWs in Southeast Asia. Following the meeting, Shields calls DIA official John T. Berbrich to discuss the subject further. Berbrich informs Shields that DIA's position is that there is a possibility some of the crew of an EC-47 shot down in Laos February 5, 1973 were captured, but the evidence was sketchy and inconclusive. Shields reflects to Berbrich that he (Shields) should not be adamant in denying that there are no U.S. POWs in Southeast Asia. Berbrich agrees, "adding that the Cambodia situation is also less than clear and conclusive." (Source: DIA memo to Chuck Trowbridge at DIA from John T. Berbrich.)

May 22, 1973—Vice Admiral DePoix, Director of the Defense Intelligence Agency, advises Deputy Secretary of Defense Clements that of the 1,303 personnel officially unaccounted for, the debriefs of the returnees contain information that approximately 100 of them are "probably" dead. He further advises that the Military Services are not considering any status changes at this time from missing to captured.

May 23, 1973—Le Duc Tho, Nguyen Co Thach, and Phan Hien of the North Vietnamese Government meet with Henry Kissinger and NSC/State staff (names redacted from document).

Le Duc Tho tells Kissinger, "Minister Thach has told Ambassador Sullivan that we will help you to coordinate with our ally in Laos in getting information about the missing in action in Laos." Kissinger asks Le Duc Tho to have an understanding with the U.S. to "not contradict" any U.S. public statements that article 8(b) of the Paris accords applies to all of Indochina.

He then states to Le Duc Tho, "Now, we would still like a sentence from you which I don't understand why you can't give us—which says that the DRV has been informed that there are no U.S. prisoners being held in Laos—that all the prisoners held in Laos have been released. It would be very important for us." Le Duc Tho responds, "I have acknowledged to you that all of them have been released." Kissinger asks, "Then why can't you write it down?" (Note: The following portion of the transcript of the meeting is redacted.)

May 24, 1973—Roger Shields, Assistant to the Assistant Secretary responsible for POW/MIA matters, writes a memorandum to Assistant Secretary of Defense Robert Hill (who had by then replaced Larry Eagleburger) noting that "only 10 persons, 9 of whom were United States, were released by the other side as Laos prisoners. Over 300 U.S. personnel remain unaccounted for in Laos." Shields states "In a DOD sponsored press conference held April 12, 1973, I made the statement that DOD had no specific knowledge that any U.S. personnel were still alive and held prisoner in Southeast Asia. This statement has become the basis for all subsequent answers from DOD to questions concerning the possibility that Americans may still be held prisoner in Southeast Asia." Shields recommends that the DOD position is no longer "fully satisfactory" and should be "altered slightly."

Shields further states that "we have over 1,300 Americans who are unaccounted for, and this means that we have no information to show conclusively that a man is either alive or dead."

May 31, 1973—In his opening statement before the House Subcommittee on National Security Policy and Scientific Developments, Roger Shields refers to "1,300 men who remain unaccounted for in Southeast Asia. In addition to this number, there are about 1,100 others who have been declared dead by the military services, but whose remains have not been recovered." Shields does not mention the number of personnel still listed as captured during his opening statement. In reference to these individuals, he states, "As for those who are thought to have been captured alive but who have not returned, let me say this is perhaps the most agonizing and frustrating issue of all. These are the cases of men who were seen on the ground or whose pictures were released subsequent to capture but who, for one reason or another, have not returned and for whom the other side has yet to provide a satisfactory explanation. We believe that implementation of this agreement (Paris Accords) will provide the speediest and most satisfactory answers to our questions."

June 5, 1973—Assistant Secretary of Defense Robert Hill advises Deputy Secretary of Defense William Clements that "As you requested, I have prepared for your

signature a memorandum directing that all status changes from missing in action to prisoner of war be cleared by you." (Note: Under Public Law 37 USC 551-558, the Service Secretaries are specifically charged with responsibility for status changes.)

June 8, 1973—Deputy Secretary of Defense William Clements signs the memorandum prepared by Hill informing the Service Secretaries, among others, that no changes are to be made from MIA to POW without his specific approval.

June 9, 1973—The DOD Comptroller's Office lists "67" U.S. personnel as "current captured" and "1,103" U.S. personnel as "current missing." (Note: figures do not include 1,100 KIA/BNRs.)

June 11, 1973—The U.S. Embassy in Saigon reports to the Secretary of State that a North Vietnamese rallier/defector, surfaced by the Government of South Vietnam on June 8, had stated in an interview with AP, UPI, and NBC American correspondents, that he had seen 6 prisoners whom he believed were Americans who had not yet been released. The cable to the Secretary of State reads, "American officer present at interview requested news services to play down details; AP mention was consistent with embargo request, while UPI and NBC after talk with Embassy Press Officer omitted item entirely from their stories."

June 13, 1973—North Vietnam and the United States sign a Joint Communiqué concerning the implementation of certain provisions of the Paris Peace Accords following meetings between Dr. Kissinger and Le Duc Tho.

Point 8 of the communiqué states, "In conformity with Article 8 of the Agreement, (a) any captured personnel covered by Article 8(a) of the Agreement who have not yet been returned shall be returned without delay, and in any event within no more than 30 days from the date of signature of this Joint Communiqué . . ."

At 11:30 p.m. EST, Henry Kissinger sends a cable to U.S. Charge in Laos, John Gunther Dean, which notes "Le Duc Tho explained to me last week that you had mentioned the U.S.-DRV understanding re: U.S. prisoners captured in Laos in your talk with (Pathet Lao leader) Phoumi Vongvichit. We obviously cannot afford to give Hanoi this sort of grounds on which to abort their understanding with us."

June 18, 1973—A meeting of the U.S./North Vietnam Joint Economic Commission takes place to discuss U.S. reconstruction assistance to North Vietnam, as provided for in Article 21 of the Paris Peace Accords.

June 21, 1973—The Office of the Assistant Secretary of Defense for Public Affairs states in a letter from a POW/MIA activist that the "concern of the Administration, as well as the Department of Defense, is not creating or fostering the feeling of false hope for the families with men listed as missing in action. As of this date, there is no evidence available to us indicating that any of these men are being held prisoners anywhere in Southeast Asia." The letter is signed by Lt. Daniel James, USAF, Principal Deputy Assistant Secretary.

June 30, 1973—An alphabetical name list prepared by DOD's Comptroller's Office lists 67 U.S. military personnel as "hostile captured." Only 2 POWs from this list appear with "Laos" as the country of casualty. (Hrdlicka and Shelton—Note: Hrdlicka's photo had previously been published with his identification in Pravda, and was a well-known case at the time.) The list also identifies 1,090 "Hostile missing" U.S. personnel and 108 "Non-Hostile Missing" U.S. personnel. The list does not contain the names of 1,100 additional U.S. personnel carried as killed in action, body not recovered in Laos, Vietnam, and Cambodia.

July 17, 1973—Deputy Secretary of Defense William Clements sends a memorandum to President Richard Nixon. He states, "In my view, the status determination process, as established by law and experience, should be allowed to function as prescribed if we are to maintain fairness, credibility, and consistency. It is not our intent to write off our missing men prematurely, but at the same time, we cannot condone building undue hope for the family members without justification."

Clements continues, "Presently, there are 1,278 military personnel unaccounted for. Of this number, 67 are officially listed as prisoner of war based on information that they reached the ground safely and were captured. The rest have remained in a missing status . . . in a significant number of cases, only faint hope was ever held for the individual's survival. Although our returned prisoners could confirm the death of less than 100 men, they are of the firm opinion that none of the other missing men entered the captivity system. In addition, high level officials from the other side have repeatedly emphasized that none of the missing are still being held captive. Absence of new information indicating a man is alive constitutes implicit confirmation of prior evidence in those cases where changes for survival were deemed small. A determination of death should now be made in these cases . . ."

Clements concludes, "Where a reasonable doubt exists, the missing or captured status of these individuals should not be changed until every possible effort has been made to secure additional information from the other side. In any case, the

decision (to change statuses) should be based . . . on a qualitative judgment by the Service Secretaries concerned. Therefore, in the absence of progress in accounting for the missing, the Military Services intend to proceed now with a status change in those cases where it is warranted by available information.

July 25, 1973—The United States "temporarily suspends" talks of the U.S./North Vietnam Joint Economic Commission which had been discussing U.S. reconstruction assistance to North Vietnam, stemming from Article 21 of the Paris Peace Accords and President Nixon's February 1, "\$4.25 billion" letter to Pham Van Dong.

July 29, 1973—The United States sends a diplomatic note to the North Vietnamese protesting the fact that no information has been provided by the North Vietnamese on "more than 1,300 Americans listed as missing, and of those who have died but whose bodies have not been recovered."

August 1973—Hanoi media claims that the U.S./North Vietnam Joint Economic Commission had reached agreement on the amount of U.S. aid and its use but that the United States had refused to sign it. The detailed "agreement" is comprised of a "First Year Program and a Five Year Program for Reconstruction Aid to North Vietnam by the United States." (It is not made public until December, 1975 when it is presented to a visiting congressional delegation.)

August 1, 1973—A Memorandum of the North Vietnamese Foreign Ministry accuses the United States of cancelling seven scheduled Saigon-Hanoi communication flights." As a result, it claims that "clearly the responsibility for the delay in the implementation of Article 8(b) of the Paris Agreement and Article 10 of the Protocol on the return of captured personnel and the exhumation and repatriation of the remains of the American pilots who had died in the DRV and the accounting for the missing U.S. personnel clearly falls on the U.S. side . . ."

August 13, 1973—Assistant Secretary of Defense writes Deputy Secretary of Defense Clements stating, "As you have requested, I have prepared a memorandum directing the secretaries of the Military Departments to proceed as prescribed by law with changes in status to deceased, where warranted, of servicemen who did not return from Southeast Asia."

August 17, 1973—Deputy Secretary of Defense sends memorandum to service secretaries directing "status changes to deceased in those (MIA) cases where they are warranted under the law."

September 7, 1973—Dr. Henry Kissinger, at confirmation hearings before the Senate Foreign Relations Committee for Secretary of State, is asked by Senator Church the question of how many of the 1,300 MIAs have been accounted for to date.

Kissinger responds: "I do not believe any of them have been accounted for adequately. It has been one of the unsatisfactory aspects of the implementation of the agreement. When I was in Hanoi in February, I brought some 80 files of individuals who we had reason to believe had been captured or were in some prisoner group. They (the North Vietnamese) told us they would make an immediate investigation. So far, we have not had any results of that. In Laos, actually, we have more reason for concern, because the ratio of prisoners to those that we have reason to believe parachuted is smaller than it is in any other part of this area. But the answer to your question, Senator, unfortunately, is that we are extremely dissatisfied with the results of the implementation of that part of the agreement, and that is one of the reasons why we cannot proceed in certain other areas such as economic aid negotiations."

September 14, 1973—Protocols to the Laos February 21 Cease-Fire Agreement are signed between the Pathet Lao and the Royal Laotian Government. Article 18 of the Protocols states: "Within 15 to 30 days after the date of the signing of this protocol, each side will inform the Central Joint Commission for the Implementation of the Agreement of the number of the persons captured and detained, and state clearly the nationality of each person, whether he is a military or a civilian, as well as the list of the captured persons who died during the period of detention."

September, 1973—Dr. Kissinger meets with Royal Lao and Pathet Lao representatives at the United Nations, and is reported to have discussed the POW/MIA issue.

October 14, 1973—POW/MIA relatives go to Vientiane in anticipation of receiving information on numbers of POWs from the Pathet Lao, in accordance with the September protocols. No information is provided during a meeting between the families and Soth Petrosy, the Pathet Lao spokesperson.

March 6 and March 13, 1974—North Vietnam hands over to the U.S. the remains of 23 American POWs listed as died in captivity. Hanoi commentary cites its strict implementation of the Paris agreement.

April 5, 1974—The Lao Provisional Government is officially formed. Under the terms of the February 21, 1973 Laos Cease-Fire Agreement, any U.S. POWs are to be released within a 60-day period following the establishment of this government.

April 17, 1974—Rear Admiral Donald Whitmire of the Defense Intelligence Agency signs an agency report which refers to the probability of 300 American POWs remaining in Laos and Cambodia.

April, 1974—Dr. Henry Kissinger, in a memorandum to President Richard Nixon, advises him to turn down a request to meet with the National League of POW/MIA Families. He states, "there is also some danger that taking a strong position (on the POW/MIA issue) in such a forum might encourage the North Vietnamese to think that they could use the MIA issue as a lever to press us for concessions on other matters." In a letter drafted for the League of Families at the time, Dr. Kissinger states, "None of us can be optimistic concerning our missing—there is no reliable evidence to indicate that any of them (U.S. POW/MIAs) are alive."

May 27, 1974—In an internal study, DIA states "to date, Pathet Lao officials have taken no discernible action to comply with the terms of the agreement regarding the release of U.S. POWs."

August 9, 1974—Gerald Ford becomes President of the United States following Richard Nixon's resignation.

September, 1974—Emmet Kay, an American pilot of an Air America aircraft captured on May 7, 1973, is released by the Pathet Lao.

December 3, 1974—Vietnam characterizes December 3 comments by Secretary of State Kissinger to the effect that "the United States has not carried out and has no intention to carry out in the near future its obligations regarding the healing of the wounds of war in the Democratic Republic of Vietnam."

April 30, 1975—Saigon falls to North Vietnamese forces. At 12 noon EST, the U.S. imposes a trade embargo against all of Vietnam. (On May 5, 1964, the embargo was imposed on North Vietnam.)

May 29, 1975—State Department spokesman Robert Funseth states, "The U.S. State Department regards this agreement (Paris 1973) as still binding where it is applicable. Hanoi must bear the main responsibility for the missing in action issue."

June 3, 1975—North Vietnamese Premier Pham Van Dong in his speech to the DRV National Assembly states that normal relations could be effected if the United States implemented "the spirit" of Article 21 of the Paris Peace Accords.

June 4, 1975—North Vietnamese Foreign Minister Trinh reports to the DRV National Assembly that "the DRV Government is ready to discuss with the U.S. Government such questions as U.S. help in healing the wounds of war in both zones of Vietnam, the search for Americans missing in action, as well as the exhumation and repatriation of the remains of Americans killed in the war."

June 18, 1975—Dr. Kissinger, now Secretary of State, asserts during a speech to the Japan Society in New York that "we are prepared to look to the future" with regard to the new regimes in Asia."

June 21, 1975—North Vietnamese Nhan Dan publication states that there can be normal relations with the United States only once the U.S. implements its "obligation" under Article 21 of the agreement on aid in the postwar reconstruction of Vietnam.

North Vietnamese Premier Pham Van Dong in a letter to 27 Members of the U.S. House of Representatives states that the U.S. contribution to healing the wounds in both zones of Vietnam is linked to information on the missing in action. (Source: Montgomery report.)

October 29, 1975—North Vietnam releases nine American civilians who were taken prisoner earlier in the year in South Vietnam.

November 14, 1975—Secretary of State Kissinger holds an informal meeting with Members of the House Select Committee on Missing Persons. In response to a question from Congressman Montgomery, Kissinger states he does not believe the Vietnamese held any POWs, since there was no purpose for them to do so. He states he does not know about Laos, however. He further states that normalization with Vietnam must come without submission to blackmail.

November 21, 1975—PRG Foreign Minister Nguyen Thi Binh holds a press conference in Saigon stating that the United States must comply with Article 21 in order to improve relations.

November, 1975—House Select Committee Staff member Henry Kinney, during a trip to Vientiane, Laos, reports he is told by Vice Foreign Minister Soubanh that reconstruction aid is a duty and obligation of the United States . . . and that the United States is like a hit and run driver."

December, 1975—The coalition government in Laos is replaced by a Pathet Lao Government.

December 3, 1975—North Vietnamese Ambassador to Paris meets with Members of the House Select Committee on Missing Persons. Following the meeting, he announces that the bodies of three U.S. pilots would be returned to Committee Members during their upcoming visit to Hanoi. Montgomery reports that he told the Ambassador that he did not expect Congress to vote for any aid to Vietnam.

December 7, 1975—President Gerald Ford remarks on Indochina in a Honolulu speech on the Pacific Doctrine. He states that Washington wants to "look to the future rather than the past" in its relations with the new regimes in Southeast Asia. President Ford further states that progress on the POW/MIA issue would result in reciprocal action by the United States.

December 8, 1975—Hanoi radio reports note that President Ford "said nothing" about the U.S. "pledge" to contribute to the compensation for war damage, as provided under the Paris agreement.

December 21, 1975—Members of the House Select Committee on Missing Persons meet with North Vietnamese Premier Pham Van Dong in Hanoi, following the return of the remains of three U.S. pilots at a Hanoi repatriation ceremony. Pham Van Dong tells the Members that the United States has an obligation to implement Article 21 of the Paris accords and provide U.S. aid for the postwar reconstruction of Vietnam. The delegation is also provided with a list described as the U.S./North Vietnam Joint Economic Commission report, which the United States "agreed to but never signed." The Commission was set up by Dr. Kissinger and Le Duc Tho in February, 1973 to implement Article 21 of the Paris Peace Accords and carry out President Nixon's February 1 pledge to Pham Van Dong to provide up to \$4.25 billion in reconstruction and food assistance. Montgomery reports that he tells the Vietnamese that "they are not going to get reconstruction aid from the United States, and we weren't going to bargain or pay blackmail."

January 16, 1976—DRV Premier Pham Van Dong meets with U.S. Senator George McGovern and points out that the U.S. "must seriously implement its obligation" under Article 21 and that "full implementation" would "create favorable conditions" for the normalization of relations.

January 17, 1976—PRG Foreign Minister Binh in an interview states that the United States has an obligation based on judicial and ethical considerations to implement Article 21.

February, 1976—The House Select Committee on Missing Persons attempts unsuccessfully to obtain from National Security Advisor Lt. General Brent Scowcroft an actual copy of the 1973 Nixon aid letter to Pham Van Dong.

March 12, 1976—Secretary of State Kissinger meets informally with Congressman Montgomery and other Members of the House Select Committee on Missing persons. He informs the Members that the Nixon letter "did not contain a commitment of U.S. aid to North Vietnam." No copy of the letter is provided or shown to Congress. (Sources: Montgomery report, and Habib letter to Montgomery, August, 1976.)

March 22, 1976—President Gerald Ford, during a campaign stop in North Carolina, in response to a question about Americans still missing in Indochina, characterizes the North Vietnamese as "international pirates."

March 23, 1976—Hanoi commentary states that the United States has "dodged its responsibility" for contributing to postwar reconstruction in Vietnam as provided for in Article 21 of the Paris agreement.

March 26, 1976—Dr. Kissinger sends letter to DRV Foreign Minister Trinh. The letter states that Congressman Montgomery of the House Select Committee on Missing Persons has informed him that Vietnam is interested in discussions with the U.S. aimed at eventual normalization. Dr. Kissinger expresses the willingness of the U.S. Government to open discussions with Vietnam on this topic.

April 10, 1976—DRV Foreign Minister Trinh responds to Dr. Kissinger stating Vietnam's interest in an "early settlement of the outstanding questions concerning Vietnam and the United States in the postwar period as provided for in the Paris agreement on Vietnam, such as the U.S. contribution to healing the wounds of war and to postwar reconstruction in the two zones of Vietnam, the seeking of the Americans missing in action, the exhumation and repatriation of dead Americans, etc."

April 14, 1976—Dr. Henry Kissinger, Secretary of State, testifies before the Senate Appropriations Subcommittee on Foreign Assistance and Related Programs. He states, in response to a question on aid plans to Vietnam, "We have indicated that we are prepared to have discussions with Vietnam about our relationship. We have had a reply from Vietnam that indicates economics is their interest, which we are now studying. We cannot accept the proposition that we have an obligation to give aid, which we have not. We believe that the Paris accords have been breached so completely that it would be completely absurd to let only one article survive

when all the other obligations have been totally abridged by North Vietnam. We have had no discussions with North Vietnam in a reasonable spirit of their concerns. We have no plans to give any aid. Senator Inouye, you obviously want to discuss the subject of aid, but we would like to complete our study of it before making any comment."

April 15, 1976—Hanoi commentary criticizes Dr. Kissinger for his "slandorous allegations," and publicizes for the first time in DRV media that former President Nixon had written a letter to Pham Van Dong promising specific amounts of reconstruction aid.

April 22, 1976—Secretary of State Kissinger remarks that Vietnam's "complete accounting for the missing in action" is the "absolute precondition" for U.S. consideration of any other moves in its relation with Vietnam.

May 8, 1976—The Department of State sends diplomatic note to Vietnam stating that talks on the basis of "the selective application of past agreements would not be fruitful . . . the United States believes it would be more useful to discuss issues affecting future relations between our two countries. The humanitarian concern of a full accounting of our missing men will be one of the primary issues of the United States in such discussions. Until this issue is substantially resolved, there can be no real progress toward normalization of relations."

June 19, 1976—Vietnam responds with diplomatic note stating that the "unilateral U.S. denunciation of the Paris agreement is aimed at evading the pledges it has solemnly undertaken in signing the agreement, especially Article 21. On the other hand, the U.S. demands that Vietnam implement Article 8(b) of the agreement. Obviously it wants to renege on its obligations under the Paris agreement on Vietnam while demanding that the other side implement another article of the same agreement. This completely runs counter to international law and practices." The note goes on to say that Vietnam is willing to settle postwar issues such as the U.S. contribution . . . and the seeking of the Americans missing in action. Vietnam further proposes a meeting in Paris.

July 19, 1976—The United States sends a diplomatic note to Vietnam agreeing to meet in Paris at an unspecified time. The note further states that a "full accounting for those Americans missing in action and the return of the remains of those killed in action is a matter of primary concern to the United States. The United States does not consider that it has an obligation to provide reconstruction assistance to Vietnam, as the Ministry of Foreign Affairs alleges in its note."

July 21, 1976—Under Secretary of State for Political Affairs, Philip Habib, testifies before the House Select Committee on Missing Persons that there has been no accounting of the 320 MIAs in Laos by the Pathet Lao or North Vietnamese since these personnel became missing or captured.

In response to a question by Congresswoman Schroeder on whether the Pathet Lao are hinging their cooperation on POW/MIAs to something else, Habib responds, " . . . in general terms, the question of our overall relationship with them has been linked to the so-called obligation that we have with respect to binding up the wounds of war."

Habib states, in reference to allegations that a 1973 Nixon letter contained promises of reconstruction aid, " . . . there was no agreement. There never was an agreement as far as I know, and I think I would know at this stage. We have researched it, and there is no agreement with respect to the question of aid involved in that letter . . . the truth of the matter is there was no agreement."

July 22, 1976—At a Seattle speech, Secretary of State Kissinger refers to Vietnam as a "potential threat" in Southeast Asia. Hanoi commentary dismisses the reference as a "figment of Mr. Kissinger's imagination occasioned by his nervous state of mind." The commentary states that Dr. Kissinger dealt with the "question of missing Americans in an effort precisely to defend Washington's wrong attitude toward Vietnam."

July 25, 1976—President Gerald Ford addresses the National League of POW/MIA Families, telling the group that Vietnam must resolve the POW/MIA issue if it wishes to have normalized relations. Hanoi commentary refers to the speech as "blackmail," stating that the crucial "question" in the normalization issue is the U.S. solemn promise to contribute to healing the wounds of war.

July 31, 1976—Hanoi announces that it is repatriating 48 Americans stranded in Vietnam after April, 1975 "in pursuance of Vietnam's humanitarian policies."

August 2, 1976—Under Secretary of State for Political Affairs, Philip Habib, sends a letter to the Montgomery Commission in response to a question posed to him during a hearing on July 21, 1976. In reference to the February 1 Nixon letter to the North Vietnamese on reconstruction aid (still classified and being withheld from Congress at the time), Habib states: "The President's message did not contain any

pledges of promises of aid . . . the letter did not specifically pledge to seek any particular sum of money.

The State Department also sends further responses to Congressman Montgomery concerning POW/MIAs and the Paris Accords. Specifically, the State Department expresses the view that "we have no further obligation under the Paris Accords in view of the massive North Vietnamese violations of the Agreement . . . at the same time, under international law, the North Vietnamese cannot, by their violations, relieve themselves of their obligations under the Agreement to provide information on our MIAs . . . nor can they avoid their responsibilities under the Geneva Conventions . . ."

August 27, 1976—Vietnam sends diplomatic note to the United States reemphasizing that it has made clear its views on the Paris agreement, and proposing liaison meetings in Paris between the two sides to set a time and place for the first meeting.

September 9, 1976—U.S. Ambassador to the United Nations William Scranton states to newsmen in Tokyo that the United States may bring the issue of Americans missing in Vietnam to the United Nations because of the lack of progress in bilateral contacts between Vietnam and the United States.

On the same day, Vietnam provides information on 12 missing U.S. pilots from the war, along with a statement saying the information was being provided "to create favorable conditions for early discussions between the United States and Vietnam."

September 13, 1976—Vietnam's Foreign Ministry issues a statement accusing the United States of flagrantly distorting the truth concerning the lack of progress in bilateral contacts, and calls on the United States to respond to the DRV's August 27, 1976 note. The Ministry also releases the text of diplomatic notes which had been exchanged between the two sides in previous months.

U.S. Ambassador to the U.N. Scranton meets with President Ford, and later states that the U.S. will veto Vietnam's application to the United Nations.

October 24, 1976—Secretary of State Kissinger announces that the U.S. and Vietnam had agreed to hold talks in Paris.

November 12, 1976—Vietnam and U.S. representatives hold talks in Paris, France. The Vietnamese representative, Tran Hoan, states, "We are ready to carry out fully, and I repeat fully, our obligations regarding the provisions of Article 8b of the Paris Accord (on MIAs) . . . but, the American side must also assume its obligations regarding its contribution to healing the wounds of war and to postwar reconstruction in Vietnam and to carry out what was agreed at Paris in 1973 in the Joint Economic Commission. It is not only a question of law or of legality, but also a question of honor, responsibility, and of conscience."

The U.S. representative, per cabled instructions from Secretary of State Kissinger, states that the United States wants to look to the future, not the past. The talks break down with Vietnam stating its position that it was unreasonable for the United States to expect full implementation of Article 8 on MIAs, when it refuses to acknowledge any willingness to provide aid promised by Article 21 of the same agreement. Vietnam further states that just as the MIA issue is a humanitarian issue, so is the U.S. obligation to provide assistance, and that both issues have resulted from the war. Vietnam is not asked, nor do they deny holding any American POWs. (Source: declassified State Department cables.)

November 13, 1976—Under Secretary of State Philip Habib reports to Secretary of State Henry Kissinger, on the November 12 meeting with the Vietnamese. In a memorandum to Kissinger, he states that the "core of the Vietnamese argument is that Vietnam is prepared to fulfill fully, and I repeat, fully, our obligations" under the Paris Agreement to account for the MIAs, but that the United States should fulfill its "obligation to contribute to binding up the wounds of war and the reconstruction of Vietnam and to accomplish that which was agreed on in 1973 in the Joint Economic Commission."

November 15, 1976—The United States vetoes in the U.N. Security Council Vietnam's application for entry into the United Nations.

December 13, 1976—The Report of the House Select Committee on Missing Persons is filed. The major conclusion reads, "No Americans are still being held alive as prisoners in Indochina, or elsewhere, as a result of the war in Indochina." The report further states that the "lack of direct discussions" between the two sides has "prevented the closing of this chapter. The United States wishes and deserves an accounting for the missing. The Indochinese demand reconstruction of their war-torn countries. The United States insists on an accounting as a precondition to normal relations. The Indochinese, particularly the Vietnamese, state that reconstruction aid must precede their accounting for our missing."

January 1977—Jimmy Carter is sworn in as President of the United States.

February 2, 1977—Vietnam's Ambassador to France, Vo Van Sung, states at a news conference that Vietnam is willing to hold talks with the United States on "questions concerning both parties" and to help in the search for U.S. missing in action. He calls on Washington to implement a Joint Economic Commission "agreement" between Vietnam and the United States in 1973. The agreement outlines forms of proposed U.S. assistance to Vietnam.

February 25, 1977—The Department of State announces that President Carter is sending a Presidential Commission on POWs and MIAs to Southeast Asia. The Commission is comprised of United Auto Workers President Leonard Woodcock, Congressman Sonny Montgomery (former Chairman of the House Select Committee on Missing Persons), former Senator Mike Mansfield, former Ambassador Charles Yost, and Mrs. Marian Edelman, Director of the Children's Defense Fund.

The Commission is not empowered to negotiate on matters involving the relations between the two countries. Rather, it is charged with traveling to Vietnam and Laos "to seek information on missing U.S. personnel", and to receive and report back to President Carter on the views of Vietnam and Laos "on matters affecting mutual relations."

March 7, 1977—Woodcock Commission members are briefed by the State Department on the Vietnamese position of linking Article 8(b) on POW/MIAs from the Paris Peace Accords to Article 21 involving \$4.25 billion in promised U.S. assistance from the same accords. They are also shown a still classified copy of the Nixon letter to Pham Van Dong promising the aid. Commission members conclude that "it is better to approach the Vietnamese in a humanitarian spirit of mutual cooperation, looking to the future, rather than to engage in sterile, legalistic debate of the past which focused on the war."

March 8, 11, 16, 1977—Reports from the Central Intelligence Agency forwarded to James D. Rosenthal, Director of Vietnam, Laos, and Cambodia Affairs at the State Department refer to information collected concerning private comments by DRV Vice-Foreign Minister Phan Hien to a third country diplomat. Phan Hien is reported to have stated privately that his country is still holding American POWs to use as leverage in discussions with the United States on economic aid. CIA refers to the source of the report as "a usually reliable source with excellent access."

March 12, 1977—The Laos (LPDR) Foreign Ministry issues a communique accepting a proposed visit by the Woodcock Commission. It notes that topics of discussion will include "Americans missing in Laos" and "aid for postwar reconstruction."

Commission members meet with President Carter on the same day. (Transcript of meeting in State Department records.)

March 15, 1977—National Security Council staff assistant Oskenberg sends memorandum to NSC Advisor Brzezinski stating "many members of the League of Families are distressed by the purpose of the Woodcock Commission. They believe it is simply a ritualistic effort to obtain an accounting, with the President already having decided that he will accept whatever the Vietnamese give as sufficient to justify movement toward normalization. I think it is important to keep the League on board for as long as possible."

March 16, 1977—The Presidential Commission on POWs and MIAs, headed by Leonard Woodcock, arrives in Hanoi, and is met by Vice-Foreign Minister Phan Hien. Commission staff accompanying the delegation include James D. Rosenthal, Kenneth Quinn, both from the State Department, and Roger Shields, former head of POW/MIA affairs at the Pentagon during Operation Homecoming.

March 17, 1977—Commission members meet with North Vietnamese Prime Minister Pham Van Dong and Vice Foreign Minister Phan Hien. Woodcock is informed that the issue of POW/MIAs is "inter-related" with the U.S. obligation to provide reconstruction aid to North Vietnam. He is further told that Article 8 and Article 21 are both part of the same agreement, and that "the obligations of both sides are legal, humanitarian, and should be done on the basis of reciprocity. Phan Hien adds, "In brief, we have obligations which are related to each other. So, we should start from this position."

Woodcock states to Phan Hien, "Let me stress we are not realistic in our expectations. We recognize that no information may ever be recovered on many of the missing."

Montgomery informs Phan Hien that he does not expect Congress to appropriate any reconstruction aid to Vietnam.

Vietnamese media states that Pham Van Dong had "in particular, underscored" to Woodcock the U.S. "obligation" to provide aid for the reconstruction of Vietnam.

March 19, 1977—Vietnam turns over to the Presidential Commission the remains of 12 USAF and Navy personnel who died during the war, which they had earlier

provided information on in September, 1976 just prior to the U.S. announcement of its intention to veto Vietnam's application for U.N. membership.

March 20, 1977—Commission members meet with Laos President Souphanouvong and Foreign Minister Phoune Sipaseuth. Woodcock reports that "the Lao made clear to the Commission that they connected the MIA problem with that of U.S. assistance to heal the wounds of war and rebuild their country. They expressed the belief that the two problems should be resolved together, since both resulted from the war. They noted that if one speaks of humanitarian concern for the MIAs, one must also think of the damage Laos suffered at U.S. hands during the war."

Laos media coverage consists of press and radio comment explaining the Lao position on U.S. aid and missing Americans.

March 24, 1977—The Woodcock Commission reports to the President. Two of the major conclusions of the Commission are—"The Vietnamese clearly expect a significant U.S. contribution to their postwar economic reconstruction." "There is no evidence to indicate that any American POWs from the Indochina conflict remain alive."

President Carter sends a message to the Vietnamese that the United States is ready to engage in talks in Paris as they had suggested. Vietnam immediately confirms their attendance at proposed talks in late April/early May.

President Carter, at a press conference, announces the United States will hold talks in Paris with the North Vietnamese on the subject of normalization. He emphasizes that the United States would not assume "the status of culpability" nor one of "debt" with regard to the U.S. role in Vietnam.

In response to a question on whether the United States would be forthcoming with economic aid if Vietnam is forthcoming with information on American MIAs, Carter states, "I don't feel we should be forced to pay reparations at all."

Laos official commentary states that "the search for missing Americans can only be carried out in conjunction with postwar reconstruction."

March 26, 1977—Phan Hien, Vice Foreign Minister of Vietnam, states in an interview that there must be "scrupulous implementation" of articles 8b and 21 of the Paris agreement, and that the issue of "accounting for missing Americans" and U.S. aid for Vietnam are "interrelated." He warns that President Carter's "injurious" statements are inconsistent with the U.S. stated desire to "open a new dialog and a new period of relations between the two countries."

March 31-April 1, 1977—Mr. Woodcock and Representative Montgomery testify before Committees of both the House and Senate on their trip. Woodcock testifies, in response to a question by Senator Griffin, that "They (the Vietnamese) say no Americans are held alive against their will. I add to that just good commonsense, and the passage of time. Why would they be holding Americans against their will? I add to their assurances just good commonsense, that says, they (the MIAs) are not alive." Woodcock further states that his Commission "was not commissioned to negotiate on finding a solution to the MIA problem." As a result, Woodcock states he had "little leverage" while he was in Hanoi and that he was limited to "getting their thoughts."

April 25, 1977—In a response to a request by the National League of POW/MIA Families to meet with the President, NSC assistant Oskenberg advises NSC Advisor Brzezinski to turn down the request stating, "the group has nothing to say either to you or the President."

April 28, 1977—In a memorandum to Richard Holbrooke, Assistant Secretary of State for East Asia and Pacific Affairs, and National Security Advisor Zbigniew Brzezinski, NSC staff assistant Oskenberg advises that the League of Families is concerned over the upcoming Paris talks with the Vietnamese. He states, "the League is concerned we may be yielding our best bargaining chips (on obtaining an accounting) if we extend diplomatic relations to Hanoi."

May 3-4, 1977—The United States and Vietnam hold two days of talks at the former Vietcong mission in Paris. The representatives are Phan Hien, Vice Foreign Minister of Vietnam, and Richard Holbrooke, Assistant Secretary of State for East Asia and Pacific Affairs. Holbrooke is accompanied by Ken Quinn from the State Department (currently serves as Chairman of the Bush Administration POW/MIA InterAgency Group at the State Department).

During the talks, Phan Hien brings up the Nixon letter promising up to \$4.75 billion in economic assistance. Holbrooke responds that the Carter administration was unable to fulfill that commitment. Holbrooke later states in an interview, "My instruction was to propose to the Vietnamese mutual recognition without preconditions . . ." No emphasis is placed on the POW/MIA issue by the United States during the talks. Ken Quinn, in a subsequent interview, states, "At one point during the talks, Holbrooke leaned across the table and said, 'Mr. Minister, let's leave

aside the issue that divide us. Let us go outside and jointly declare to the press that we have decided to normalize relations." Hien said no, there must be a U.S. contribution for healing the wounds of war." In another interview, Ken Quinn states, "It was offered full normalization of relations and lifting of the trade embargo. I was in the room when it happened. They turned it down. They demanded money from us."

The talks subsequently break down with no agreements.

At a meeting 14 years later in Hanoi (May, 1991), Communist Party General Secretary Linh confirms to a U.S. Congressional delegation that the subject of POW/MIAs had not been raised during the 1977 Paris talks as a precondition to normalization of relations. He inquired as to the appropriateness of raising the issue 14 years later in the context of normalization.

May 4, 1977—Secretary of State Cyrus Vance remarks at a press conference, "We are pleased with the progress which is being made in the MIA area."

May 19, 1977—The State Department declassifies and releases the secret Nixon letter concerning economic reconstruction to North Vietnam. During the same period, the Vietnamese media is releasing communications which had passed between the Nixon administration and the DRV.

May 25, 1977—National Security Council staff assistant Oskenberg sends memorandum to NSC Advisor Brzezinski in preparation for possible questions which might be asked of President Carter at a planned May 26 press conference.

He states that the Vietnamese are explicitly linking aid to recognition, and that the "hardened mood makes it unlikely that we will be obtaining more information on MIAs." He further states, "In response to the President's request, the Pentagon is forwarding recommendations on status reviews of the MIAs. The Pentagon will recommend that case reviews go forward, ie: that MIAs be declared KIAs."

May 26, 1977—President Carter is not asked about the talks or the subject of MIAs during his press conference.

Secretary of Defense Harold Brown sends a memorandum to President Carter forwarding his recommendations on status reviews. He states, "It is true that the Southeast Asian Governments probably have significantly more information about our missing men that they have given us. There is no reason to believe, however, that continuing to carry servicemen as missing in action puts pressure on Hanoi to provide information on our missing men. In fact, the opposite is true; it puts pressure on us to make concessions to Hanoi."

Secretary Brown further states, that "given the overwhelming probability that none of the MIAs ever will be found alive, I believe the time has come to allow the Service Secretaries to exercise their responsibilities for status reviews . . ."

June 2-3, 1977—North Vietnamese Representative Phan Hien and U.S. Representative Richard Holbrooke hold another round of talks in Paris. Phan Hien states that Vietnam is continuing "to make efforts in seeking information about Americans missing in action in Vietnam. Our deeds are always consistent with our words. We always give close attention to what is to the United States a major concern in order to contribute to alleviating the worries of the relatives of those Americans still considered as missing in action in Vietnam." No agreements are reported on the talks. During the talks, Phan Hien gives information to the U.S. side on the death of 20 U.S. pilots during the war.

September 30, 1977—Vietnam turns over 11 sets of remains of MIAs to Frank Sieverts from the State Department.

August 21, 1978—Congressman Montgomery leads an 8 member delegation of House Members to Vietnam. The delegation meets with Vice Foreign Minister Phan Hien and Premier Pham Van Dong. (Details of talks unavailable.) On August 26, Congressman Montgomery signs a document accepting the transfer of remains of 11 U.S. pilots.

March 7, 1979—National Security Council staff assistant Dr. Oskenberg informs David Aaron on the NSC staff in a memorandum that "a live American defector has been sighted in Hanoi and has indicated that he wishes to return to the United States. The Vietnamese had previously given no indication that there were any live Americans in Vietnam—although they clearly knew about this case. The defector has also claimed that he knows of other Americans, apparently, who are alive in Vietnam. It is politically wise perhaps for the President to protect himself on this issue by reasserting his continued interest in a full accounting."

Note: The "defector" referred to is Marine Corps Private Robert Garwood, then listed by the Defense Department as a prisoner of war captured on September 28, 1965. Garwood is later acquitted and found "not guilty" by the U.S. courts on charges of having been a deserter in Vietnam until he was allowed to leave, but is convicted on one count of "aiding the enemy" between 1967 and 1969. Other charges are dismissed.

March 12, 1979—National Security Council staff assistant Dr. Oskenberg reports that Garwood is on his way home, due to the efforts of the State Department.

Oskenberg advises that "it would be politically wise for the President to indicate his continued concerns with the MIAs . . . since the Administration had implied earlier that it believed Vietnamese assurances that there were no live Americans left in Hanoi."

April 18, 1979—National Security Advisor Zbigniew Brzezinski advises President Carter that "the National League of Families remain convinced that live American POWs remain in Vietnam. They also believe you are not being adequately informed and that the bureaucracy is not pursuing the matter aggressively. This case has little merit."

August 11, 1979—Congressman Ben Gilman heads a delegation of House Members to Hanoi for meetings on the POW/MIA issue. Gilman states to the Vietnamese, "Over these years, you have shown goodwill, carried out the accounting of the missing, and returned to us a number of remains . . ."

August 15, 1979—The Beijing Communist publication Xinhua warns the visiting Congressmen in Hanoi not to be "taken in by Hanoi's sweet words."

October 30, 1979—The League of POW/MIA Families informs Dr. Oskenberg on the National Security Council that "they are increasingly convinced that Vietnam holds live American MIAs based on continuing reports from Vietnamese refugees." Oskenberg, in a memorandum, advises NSC Advisor Brzezinski "As 1980 approaches, we must redouble our efforts to maintain close liaison with such organizations."

January 21, 1980—National Security Council staff assistant Dr. Oskenberg advises NSC Advisor Brzezinski that he should not meet with the League of POW/MIA Families because "they have nothing new to say." His memorandum states, "However, a letter from you is important to indicate that you take recent refugee reports of sightings of live Americans 'seriously.' This is simply good politics; DIA and State are playing this game, and you should not be the whistle blower. The idea is to say that the President is determined to pursue any lead concerning possible live MIAs. Do not offer an opinion as to whether these leads are realistic."

April 1980—Vietnam's Ministry of Foreign Affairs releases a "White Paper" on the "Question of Americans Missing in the Vietnam War." The statement reads, in reference to the linkage between Article 8 and 21 of the Paris Accords, "While rejecting the legality of the 1973 Paris Agreement, regarding it as 'dead' in order to evade its obligations to contribute to postwar reconstruction in Vietnam, the United States demands that Vietnam implement those provisions benefitting the U.S. side, imposing on Vietnam 'obligations' to carry out Article 8(b) . . ."

The first item in the Appendix to the statement is entitled "Some Provisions of the Agreement . . ." Article 8a and 8b is then reprinted side by side with Article 21.

January 1981—Ronald Reagan is sworn in as President of the United States. President Reagan, Vice-President Bush, National Security Advisor Allen, and CIA Director Casey are briefed on a proposed effort to confirm possible U.S. POWs at a suspected detention site in Laos.

During this period, according to an August, 1986 Wall Street Journal report, 1992 press reports, and other sources, Vietnam is reported to have discreetly made an offer to the Reagan administration in January 1981 to exchange an unspecified number of American POWs in exchange for aid they believe was promised by the Nixon administration in 1973.

May 13, 1981—A Washington Post story indicates a U.S. sponsored operation to confirm the presence of American POWs in Laos had not been successful.

August 1981—Vietnam issues a statement described as the most recent comprehensive statement of Vietnamese policy on the Missing in Action question. The statement refers to the cases of Americans who were "reportedly captured but not registered" and who, because of "war circumstances," died or became "missing" on their way to detention centers. The statement is noteworthy for its suggestion and/or admission that the Vietnamese may have knowledge of additional cases not yet revealed. (FBIS analysis group report, February, 1982.)

February 1982—President Ronald Reagan, in a policy decision, elevates the POW/MIA issue to one of "highest national priority."

Assistant Secretary of Defense Richard Armitage visits Hanoi for talks on the POW/MIA issue. Beijing radio reports that Hanoi is using the MIAs as "a card with which to arouse U.S. public opinion and haggle with the U.S. Government."

January 28-29, 1984—The Foreign Ministers of Vietnam, Laos, and Cambodia meet in Vientiane, Laos. They issue a communique which, for the first time, mentions the American MIA question. The communique states that although the three Indochinese countries will exchange information among themselves on missing Americans, their cooperation with the U.S. Government will be conditional. "Within

the capacity of each country, the Indochinese states are ready to "cooperate" with the United States on the MIA question, "if the U.S. Government has a cooperative attitude and renounces its "hostile policy" toward Indochina. (FBIS Trends February 8, 1984.)

November 21, 1985—Henry Kissinger states in Bangkok that Vietnam is using the remains of American servicemen to test its improved relations with the United States (as reported by Hanoi International Service on November 23, 1985).

January 5-6, 1986—Vietnam's Foreign Ministry issues an announcement stating that the U.S. and Vietnam in talks on the POW/MIA issue had "pledged to create a favorable atmosphere." The statement further noted that the two sides had agreed that the MIA question is a "humanitarian one that cannot be used as a political condition for normalization of relations between the two countries." The talks were conducted with Richard Armitage, Assistant Secretary of Defense, in Hanoi.

February 17, 1986—Vietnam's Foreign Ministry issues a statement following a congressional delegation visit to Hanoi, referring for the first time publicly to the possibility of Americans in Vietnam. The statement raises the possibility that Americans who were "planted" in Vietnam as part of a "postwar plan" may still be "hiding" in Vietnam.

March 1986—Responding to a question on what steps the U.S. Government would take on a report of POW it believed was credible, Richard Armitage, responds that the United States "might get him from an operation. It could be that he would be an individual, held in captivity, in proximity with other individuals who are reported to be in captivity, and we would want to be careful that we did not extract one, to the disbenefit of the others."

Vietnam blasts Armitage's statement as violating the U.S. pledge to create a favorable atmosphere to discuss the POW/MIA issue. Vietnam commentary warns that such threats would only "obstruct and prolong a final settlement of the MIA issue."

April 10, 1986—Vietnam's Acting Director of the Foreign Ministry's North American Department refers to Armitage's comments as "offensive." He further states that the United States has rejected Vietnam's "proposals for closer cooperation" while his country has accepted the U.S. proposals on the MIA issue. He warns that if Washington refuses to cooperate, "there will be either few results (on the MIA issue) or none at all."

May 29, 1986—Henry Kissinger states on the ABC 20/20 program, "I do not to this day believe that there are live prisoners in Vietnam because I do not see what purpose they would serve, keeping prisoners for 13 years without trying to bargain. There were 70 names on our list where we had reason to believe that they had been alive upon hitting the ground, who did not appear on the Vietnamese list. Where we had pictures, I showed them the pictures; where we had voice contact, we spent days on that subject. And they would just say its a fabrication that isn't true—I thought they were lying. I thought probably they had killed these people or they had died in some way. To negotiate with the North Vietnamese without pressure is a nightmare and, of course, he denied it again, we sent over the list numerable times. But the Vietnamese knew they were home free."

In the same interview, Al Haig, in response to a question that a possible consequence of America's thirst to turn a page on Vietnam was leaving men behind, states, "Of course, that was a possible consequence. But the concern was for the greater good, the return of the men who were ready, and there could be no denial about, and to continue to pursue."

September, 1986—An internal Defense Department panel convened by former Defense Intelligence Agency Director General Eugene Tighe concludes that there is a "strong possibility" that American POWs are still alive and held against their will in Southeast Asia.

March 16, 1987—Henry Kissinger states in a letter, "Under the (Paris 1973) Agreement, Vietnam was responsible for the return of all prisoners in Indochina. If any prisoners were kept behind, it was through a violation of the agreement by Hanoi, not through an omission in the agreement."

April 8, 1987—Texas businessman Ross Perot advises President Reagan to appoint General Vessey to "negotiate" with the Vietnamese to "gain the release" of POW/MIAs and to resolve any issues that are of concern to Vietnam.

May 26-27, 1987—Richard Childress from the National Security Council leads a delegation to Hanoi and receives a low-profile, low-level reception.

June 18, 1987—At a press conference in Hanoi, Vietnam's Foreign Minister Nguyen Co Thach states, in reference to the MIA question, that Vietnam is "many times more concerned about healing its own wounds of war" than with the MIA issue.

In a subsequent interview in the Far Eastern Economic Review, Vietnam's Vice Foreign Minister Nguyen Dy Nien states that Hanoi cannot search for missing American servicemen "free of charge." Nien suggests that there has been internal criticism that Hanoi's 8-year-old policy of cooperation on the MIA question has brought few benefits to Vietnam.

June 21, 1987—Vietnam's Communist Party General Secretary Linh in an interview by the Italian paper L'Unita notes that the United States has "failed to honor" the pledges it made in the Paris accords and is "not paying the more than \$3 billion in war compensation" due Vietnam.

July 18, 1987—Secretary of State George Schultz states, in reference to Vietnamese reports that humanitarian cooperation is a two way street, "Humanitarian reciprocity is one thing, but any attempt to trade information on our missing men for economic aid is another. We cannot agree to this."

July 20, 1987—A confidential analysis report by the Foreign Broadcast Information Service, entitled "Vietnam: Toughened Stance on the MIA Issue," states "Hanoi has toughened its line on the question of American servicemen missing in action during the Vietnam war, reviving its pre-1978 hard line linking resolution of this question to a U.S. aid commitment. Hanoi's renewed insistence on connecting the two issues may stem from an assessment that a readiness to isolate the MIA issue had brought it few results."

The report further states that "although other questions such as the refugee issue, Amerasian children, and Cambodia have often been raised in the context of a bilateral relationship since the signing of the Paris Peace Accords in January 1973, the questions of American servicemen missing in action in Indochina (Article 8b) and a U.S. aid commitment to Vietnam (Article 21) have remained the central themes of U.S.-Vietnamese relations."

August 1-3, 1987—Presidential Emissary to Hanoi on POW/MIA Matters General Jack Vessey (ret.) makes his first trip to Hanoi following his appointment by President Reagan. Vessey later testifies before Congress in reference to the trip and his appointment.

"I was chartered by the President to attempt to get agreement from the Vietnamese Government to resume and accelerate progress toward the fullest possible accounting of prisoners and Americans missing in Vietnam. I was very specifically instructed not to link normalization of relations or economic aid to the resolution of humanitarian issues (ie: resolving the POW/MIA problem). I was also authorized to listen to Vietnam's humanitarian concerns. If the Vietnamese insisted on raising political issues, my instructions were to listen to their concerns and report them back to the President, but not to engage in a dialog on political issues." (Source: House FAC testimony September 30, 1987.) General Vessey is not authorized by President Reagan to deal with the Lao Government on any POW/MIA issues. While in Hanoi, General Vessey holds seven meetings (including four private ones) with Vice Premier Nguyen Co Thach.

Vessey later testifies that he made a "U.S. commitment to address certain urgent humanitarian concerns of the Vietnamese consistent with our legal, political, and policy constraints," but that the Vietnamese side "insisted on applying the same phrase to their examination of our problem (POW/MIAs)."

A Joint Statement following the meetings reads, "United States and Vietnamese delegations have held detailed, candid, and constructive talks on humanitarian issues . . . specific measures were agreed upon to accelerate progress toward accounting for Americans missing in action, and to address certain humanitarian concerns of Vietnam . . . two meetings will take place in the near future: one to discuss next steps to resolve the POW/MIA issue, and one to discuss urgent Vietnamese humanitarian concerns."

January 19, 1989—The "Final Intergency Report of the Reagan administration on the POW/MIA Issue in Southeast Asia" is released. The report states, "We have yet to find conclusive evidence of the existence of live prisoners, and returnees at Operation Homecoming in 1973 knew of no Americans who were left behind in captivity." The report concludes . . . it is clear that the necessary conditions and arrangements have been established. Resolving this issue of highest national priority is on track. The effort now is to keep it there."

January 1989—George Bush is sworn in as President of the United States. General Vessey is reappointed as the President's Special Emissary to Hanoi on POW/MIA matters.

February 10-15, 1991—Vietnam's Justice Minister Phan Hien and other Vietnamese officials meet with U.S. Senators, Congressmen, and the U.S. State Department Chairman of the POW/MIA Interagency Group Ken Quinn for several days in Montego Bay, Jamaica. Vietnamese officials privately express the view that they have

received the impression from the meetings that the lifting of the embargo and normalization of relations could be achieved without preconditions on either side.

April 8, 1991—The U.S. presents its "roadmap" to Vietnam, outlining a step by step process to normalize relations with Vietnam, if Vietnam satisfies conditions along the way regarding Cambodia and the POW/MIA issue. The conditions on the POW/MIA issue are inserted into the roadmap document after strong pressure from Ann Mills Griffiths of the National League of POW/MIA Families, who sits on the U.S. Government Interagency Group on POW/MIAs headed by Ken Quinn.

Vietnam rejects the "roadmap" plan in a statement by the Foreign Ministry, maintaining normalization of relations should be "unconditional."

July 26, 1991—National Security Advisor Brent Scowcroft states at a press conference that there "is still no credible evidence" that MIAs survived after the war and that he is convinced that no American MIAs are still alive. In response to a question on whether he believes some Americans are still alive, Scowcroft states, "No, I do not" and "there is no incentive on the part of the United States to conceal anything on this tragic issue." (Washington Post, page 1, July 27, 1991.)

July 30, 1991—Vietnam's Vice Foreign Minister Le Mai meets with Assistant Secretary of State Richard Solomon for 2½ hours, and states afterward that the United States is hindering progress toward normalized relations with Hanoi.

August 2, 1991—The U.S. Senate passes legislation (S. Res. 82) authored by Senator Bob Smith to create a Select Committee on POW/MIA Affairs to conduct an inquiry into "matters pertaining to U.S. personnel unaccounted for from military conflicts." The committee is to make a report on its inquiry by January 1993.

October 8, 1991—Vietnamese Foreign Minister Nguyen Manh Cam states "the United States has made the MIA issue a condition for normalizing ties with us. We cannot accept this. We have taken some steps (on the MIA issue). The United States should take some steps to match our steps."

December 7, 1991—Vietnam's Communist Party Paper Nhan Dan states that Washington has "set back" a final settlement of the MIA issue, and that Vietnam is making "unilateral" concessions without demanding fulfillment of "any conditions" by the U.S. side. The article further states that the Vietnamese people are "fully entitled to demand U.S. contributions."

January 8, 1992—Former President Richard Nixon states on CNN's Larry King Live, "I would not recognize Vietnam. Vietnam has not complied with the peace treaty of 1973. It still is engaged in aggressive actions in Laos, for example . . . and it has been particularly repressive to those who fought beside us from South Vietnam." King asks, "Are there POWs there?" Nixon responds, "That's another area where—which gives us reason not to recognize them. I don't know whether there are or not, but it has been obscene, the way they have just dribbled out information to these poor families who simply want to know what happened. They've got to know a lot more than they've done . . ."

February 4, 1992—A Defense Intelligence Agency analysis of Americans still unaccounted for in Southeast Asia, using the serviceman's 1973 status, lists 1,172 POW/MIA and 1,095 Killed in Action/Body not Recovered. (Note: compared with the January 29, 1973 DIA analysis, the result is only 192 POW/MIA individuals having been "accounted for" in the last 19½ years from the original DIA 1,364 POW/MIA January 29, 1973 listing. There remain nearly 1,200 MIAs in which the Government has no "evidence" that the individuals are dead, and nearly 1,100 individuals who were declared dead as of January 1973, and whose bodies have not been recovered. All of the nearly 1,200 MIAs still unaccounted for have also been officially declared killed in action since the end of the Vietnam War.)

February 11, 1992—French press reports the following comments from Vietnamese Foreign Minister Cam, "The MIA problem is the biggest humanitarian problem concerning the United States. In this spirit, we have asked the Americans to devote an equal amount of attention to humanitarian aid to Vietnam."

May 6, 1992—Henry Kissinger states on CNN's Larry King Live, in response to a question on POW/MIAs, "Well, I think it is possible that—I have no evidence of it, but I do not exclude the fact that in Laos, where things were not well organized, that prisoners were held back in violation of the agreement. And if we ever have any evidence of this, I would be in favor of taking extremely strong action. I cannot see a rationale why they should hold back POWs, they don't do them any good unless they negotiate for them. But, then I have to say that I have never dealt with a group of people as treacherous as the North Vietnamese leadership . . . they would stop at nothing to achieve their objective."

Vice Chairman SMITH. At this time, Mr. Chairman, I will yield, and I thank the witness for coming.

Chairman KERRY. Senator Kerrey?

Senator KERREY. I have no opening statement.

Chairman KERRY. Senator Kassebaum?

Senator KASSEBAUM. No, Mr. Chairman.

Chairman KERRY. Senator Grassley?

Senator GRASSLEY. No opening statement.

Chairman KERRY. Mr. Secretary? If you would stand so I could swear you, as we are all witnesses.

Raise your right hand.

Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Dr. SCHLESINGER. I do.

Chairman KERRY. Mr. Secretary, do you have an opening statement you want to make?

TESTIMONY OF DR. JAMES R. SCHLESINGER, DIRECTOR, CENTRAL INTELLIGENCE AGENCY, 1973, SECRETARY OF DEFENSE, 1973-1974

Dr. SCHLESINGER. I will make a few brief remarks, Mr. Chairman.

Mr. Chairman, Mr. Vice Chairman, Members of the committee: I am pleased to be here with you today and to help in any way I can as this committee grapples with the difficult and emotional problem that has never gone away.

My own contact with these issues was limited, and of course, they involve events of long ago. And in the absence of deep involvement, memory fades. In the critical period of January to April 1973 I was in different jobs and only peripherally involved. I can recall the euphoria of Operation Homecoming, despite my being at the AEC at that time.

On May 10, 1973, I was nominated to become Secretary of Defense by President Nixon. The confirmation hearings proceeded expeditiously. After the confirmation, Senator Proxmire placed a hold on my confirmation over a dispute over the use of B-52's in Southeast Asia. By agreement with Senator Stennis, then chairman of the Armed Services Committee, other Members of the committee such as Senator Jackson and Senator Thurmond, I was permitted to work at the Pentagon prior to confirmation and to deal primarily with problems of my future tenure such as the budget. I had no official role at that time. I was to engage in no signings, no public announcements.

I did become thoroughly engaged in June in the problem of the restoration of NATO, which had grown into disarray during the Vietnam years. In that role, I was appointed by President Nixon as a special envoy, and that preoccupied my attention in June.

Early in July, Senator Proxmire removed the hold that he had placed on my confirmation. I was confirmed and sworn in. When I assumed my official duties, some of the passions and some of the hopes that had been associated with Operation Homecoming had dissipated, and the Pentagon itself, after its initial efforts, had settled into a routine in terms of dealing with the POW/MIA issue.

I was briefed on these problems. I was assured that we were making every effort to get compliance from the North Vietnamese,

the Pathet Lao, and the provisional government of Vietnam to the agreements that they had made to give full accounting for the prisoners and missing in action. I was assured that we were making every effort to gain intelligence on POWs and MIAs, and that we were working with the families of those engaged—of those who had been engaged in Southeast Asia—to be as helpful as we could be under those circumstances.

Mr. Chairman, that brief summary involves my direct knowledge of this issue, and I shall be pleased to answer any questions that the committee has.

Chairman KERRY. Thank you very much, Mr. Secretary. Let me begin by asking you when did your term of service at CIA begin?

Dr. SCHLESINGER. My term of service at CIA began on February 2, 1973.

Chairman KERRY. Prior to that, you were where?

Dr. SCHLESINGER. Prior to that, I was chairman of the Atomic Energy Commission.

Chairman KERRY. So prior to 1973, you personally had no reason to have any oversight or knowledge whatsoever with respect to this issue, correct?

Dr. SCHLESINGER. I had no oversight, and knowledge was that that was picked up by the average citizen or average public official as part of the process of being a member of the Administration.

Chairman KERRY. When you became head of the CIA, did you receive any special instructions from the President or any special communications from the Defense Department for CIA knowledge or tracking reports or any kind of intelligence with respect to POWs?

Dr. SCHLESINGER. I did not receive any such instructions to the best of my memory.

Chairman KERRY. Was there any particular focus that you can recall in 1973 within the CIA on the POW/MIA issue?

Dr. SCHLESINGER. There was a focus on the POW/MIA issue, but this is a somewhat complicated matter. If you will permit, Mr. Chairman, I shall go into it at greater length.

Basically, the CIA was ancillary to the intelligence entities of the Department of Defense. Needless to say, in the jungles of Laos we did not have much in the way of human agents. The CIA, which was the central gathering point for the Government, was dependent on the information that was gathered from the Pentagon. Now, under those circumstances, the CIA became ancillary and fed what little information it acquired directly into the Pentagon. So the primary responsibility lay with the Pentagon.

Chairman KERRY. Do you recall at any time seeing any information while you were at CIA with respect to prisoners held either in Vietnam or Laos?

Dr. SCHLESINGER. I do not recall any such information being given to me. I inquired of my then assistant for Southeast Asia just recently, and he said that the briefings had been very cursory on that issue because the CIA was feeding information directly to the Pentagon.

Chairman KERRY. Can you identify that person?

Dr. SCHLESINGER. That was Mr. George Carver.

Chairman KERRY. Now, you left CIA at what point in time?

Dr. SCHLESINGER. As I mentioned, President Nixon nominated me to be Secretary of Defense on May 10. I remained, however, officially Director of Central Intelligence until early July, when I was sworn in as Secretary of Defense, because of the hold that had been placed on my nomination. I divided my time in that period between the Pentagon and the CIA.

Chairman KERRY. In that division of responsibilities, did you have occasion to come into greater contact with the POW/MIA issue?

Dr. SCHLESINGER. No, I did not. I was, as I mentioned earlier, by agreement with Senator Stennis and the Armed Services Committee I could work on problems of the future, as it were, of my tenure, and I was primarily occupied in that interim period with the restoration of NATO after the Vietnam period, and as a consequence I did not become engaged with the MIA/POW issue until officially I took office as Secretary of Defense.

Chairman KERRY. Did you ever receive any request for information regarding potential prisoners being held in either Vietnam or Laos or Cambodia during the course of the negotiations on the peace treaty in Paris? Were you ever asked to feed into that, what is the status of our POWs, how many do we have, how many are we tracking?

Dr. SCHLESINGER. No, sir, but I would not have been in a position to be so asked, because I was at the Atomic Energy Commission until February 2, and I believe the agreements were signed in the period—

Chairman KERRY. The agreements were initialed on January 24, signed on the 27, but lists were not exchanged until the beginning of February, at which time it was noticed that they were not complete lists, so my question is whether at that time this began to surface as an issue with any kind of import or momentum at CIA?

Dr. SCHLESINGER. I think that Mr. Carver and others who were engaged with the Pentagon would certainly have been reviewing those lists, and they would have expressed some disappointment that those whom they had reason to believe might be on the lists were not on those lists that were given to us by the other side.

Chairman KERRY. Well, before I get to that question of lists and your perceptions of them, let me go back for a moment. You suggested that CIA was ancillary to DOD with respect to this issue.

Dr. SCHLESINGER. On the gathering of intelligence with regard to MIAs, POWs, yes, sir.

Chairman KERRY. How do you square that with the reality that the CIA was fundamentally running the war in Laos, had the most assets in Laos, and was in the best position to know any information regarding people captured? They were the only people, really, with assets on the ground.

Dr. SCHLESINGER. Well, that's a complicated issue, but basically while the CIA was running the war in Laos, it was running the war, as it were, with military assets provided from the Department of Defense.

The U.S. Government was not directly involved in Laos. It was a CIA-directed operation, but the assets that were being directed were assets of the Department of Defense. The agency itself, aside

from the operations in the West, had a very limited number of personnel in the country as compared to the Department of Defense. It was the responsibility, as it were, of the Director of Central Intelligence, yet the assets and most of the knowledge came from DOD. I hope that clarifies that.

Chairman KERRY. It expresses the bifurcation, if you will, and it prompts the question as to whether that bifurcation might have impacted the focus on the subject of POWs, that there were two hats, and nobody quite knew who was wearing which one. Is that possible?

Dr. SCHLESINGER. I think that that is conceivable with regard to Laos.

Chairman KERRY. With respect to the CIA tracking of POWs, is it fair to say that it was not really high on the tasks at that point at CIA?

Dr. SCHLESINGER. I think for those who were engaged in the process, of course, it was a task of high priority. However, other than those who were engaged in monitoring Southeast Asia, it was not a task of high priority.

Chairman KERRY. That begs some other questions, but my time is up, so we'll come back in the next round. Senator Smith.

Vice Chairman SMITH. Thank you, Mr. Chairman. Mr. Secretary, I know you were only there for a brief stint at CIA during this time, but give me your assessment of how you would rate the collection abilities of CIA and/or DOD during that time, the time during the war, and during the time that the negotiations in Paris were taking place.

How would you assess their ability? Were they good? Were they bad? Do you think they had good information on prisoners?

Dr. SCHLESINGER. I would say that they were good to excellent, Senator Smith. When overflights ceased, of course, our ability to gather information diminished, but up until the time of the ceasing of overflights we were able to stay in touch with a number of those who had been downed in Laos and that's what led to the disappointment with regard to the brevity of the list.

Vice Chairman SMITH. Essentially, you're expressing the view of many, if not most, of the so-called intelligence experts both within DOD and CIA at the time, that there were a substantial number, or certainly a substantial volume of information—there was a substantial volume of information on POWs in Laos, and when the lists were announced and when the agreements were signed and no POWs were on the lists from Laos there was surprise, anger, shock, would that be a fair assessment?

Dr. SCHLESINGER. Yes, sir.

Vice Chairman SMITH. What was your reaction to the statement on March 29, 1973, when President Nixon announced that all our POWs had come home? How did you feel about that statement in terms of its validity?

Dr. SCHLESINGER. I cannot remember my reaction at the time. I must surmise that I was somewhat surprised that we could assert that all of them were out.

Vice Chairman SMITH. On March 21, just prior to the statement—7 days prior to the Nixon statement, there was a statement to the Vietnamese from the White House from General Scowcroft

that we would abide by the terms of the Paris accords, and this was sent to General Weyand in response to a Vietnamese offer to finish the POW exchange on March 25.

The question I have is would that statement coming out just prior to Nixon's statement saying they were going to abide by the terms (and as you know, there were no terms for Laos in the Paris accords), what impact did that have on—let's see, at that time you were at CIA. What impact did that have on your agency and DOD?

What I'm trying to get at here is, based on your own assessment, there was a great deal—you felt that their collection abilities were excellent, and then a statement is made that we're going to abide by the lists—abide by the accords, and nothing on Laos in there, and you had all this collection data on Laos. How did that affect morale in the agencies, the two agencies?

Dr. SCHLESINGER. In the two agencies? I must deal with this in terms of surmise to a considerable extent.

When I did ultimately arrive at the Pentagon there was still a sense of anger and frustration that so few had come home, and I can imagine that that anger and frustration was at a higher level in the period of March.

With regard to the agency itself, as I have indicated a limited number of people were working on that problem, but I believe that they were equally frustrated.

Now, with regard to my own observations, you may recall that this was at the time that Judge Sirica had opened up the Watergate trial and various assertions or allegations had been made about the Central Intelligence Agency's alleged role in the Watergate affair, and at that time I, as director, was spending 70 or 80 percent of my time dealing with Capitol Hill, various inquiries from Capitol Hill about that problem, so I myself did not have the time to devote to this issue.

Vice Chairman SMITH. You made that very clear in your deposition, that you were preoccupied a good deal with Watergate and that the President was also concerned about the antiwar sentiment in the country at the time, but what I'm trying to get—I know this would be just more of an impression from you, but what I really would like to get at is, we have a huge amount of, using your own words, excellent intelligence gathering over the years up to the time that the accords were signed. I'm talking about Laos right now specifically.

On March 21, General Weyand was instructed to go ahead and implement the accords, and go ahead and exchange the final group of POWs, and on March 29, 1973, President Nixon said, all of our American POWs are on their way home.

What insight can you give me as to why, with all of this evolution of data up through March 22 and 23, no change—I mean, there's nobody expressing anything other than the fact that there are POWs in Laos, and then within a week—there are some meetings in between, but I'll have to get to them in the next round. As you're aware of, and some comments, but just your own observation and a final point, what in your mind caused that to be turned around in a week?

Again, I realize you were kind of the new kid on the block at that time, and I understand that. I'm not trying to press you on it.

I just would like your impression as to why you think that would happen.

Dr. SCHLESINGER. I have no direct knowledge of that. My impression would be something that I have created in later years rather than at the time, but one must assume that we had concluded that the bargaining position of the United States in dealing with Vietnam, North Vietnam, was quite weak, we were anxious to get our troops out, and that we were not going to roil the waters if that could be avoided. That would be my judgment.

Vice Chairman SMITH. My time is up. Just a comment. That's a pretty devastating remark, though, when you think that the roiling of waters refers to intelligence information on POWs alive in Laos. I mean, that's what you were being told, at least, through intelligence. Not you specifically, but that's what intelligence channels were carrying, isn't that right?

Dr. SCHLESINGER. As I've indicated, I think there was a great deal of frustration with regard to this issue. At that time, within the Pentagon in particular, and within the CIA, for those who were working on this problem. Many—a very large number of people at the Pentagon had served in South Vietnam. These people who were POWs and MIAs were their buddies, and they wanted to get them out, so you can imagine the frustration.

Vice Chairman SMITH. Thank you.

Chairman KERRY. Senator Kerrey.

Senator KERREY. Mr. Secretary, could you clear up something for me? You said Senator Proxmire put a hold on your nomination to be Secretary of Defense—

Dr. SCHLESINGER. Yes, sir.

Senator KERREY. And he did it, you indicated, because of some problems with your involvement with B-52 bombings.

Dr. SCHLESINGER. Not my involvement, my prospective involvement. If I recall correctly, Senator Proxmire asked me to pledge that if I were Secretary of Defense I would no longer use B-52's in Southeast Asia, and of course I could not make such a pledge. I thought it was an improper policy, and so I declined to make that pledge, and for some period thereafter he put a hold, I think the term is, on my nomination.

Senator KERREY. Was that as a consequence of the political unpopularity of the Christmas bombing in 1972, or was it just the tenor of the time, or do you recall?

Dr. SCHLESINGER. I think it's a combination of things. The two items that you mentioned, a lot of this had become focused on the B-52 strikes, and the B-52 strikes were regarded as highly inaccurate in terms of going after specific targets.

Senator KERREY. Senator Proxmire, was he on Armed Services?

Dr. SCHLESINGER. No. No. Any Senator could place a hold. It's a privilege of Members of the Senate.

Senator KERREY. I understand. It's a privilege I've noticed.

Can you tell me a little bit about this transition? During the time from May to July, you indicated that you were focusing on problems of the future. Was that an assignment or a discussion you had had with President Nixon, or was it something you had taken upon yourself?

Dr. SCHLESINGER. That was a result of the discussions with the Members of the Senate who—I hope I put this delicately—were somewhat frustrated themselves with Senator Proxmire for delaying the confirmation, and Senator Stennis, Senator Jackson, Senator Thurmond, said I could work at the Pentagon and work on those problems that would arise during my tenure, such as the budget, but most notably the problems of NATO.

We were determined—I was determined to restore our NATO capability, which had deteriorated very badly during the Vietnam period, and a NATO meeting was coming up. The President designated me as special envoy to that meeting prior to my confirmation, those problems that I would have to grapple with after I officially assumed the office.

Senator KERREY. What I'm trying to get at, Mr. Secretary, is the peace talks. Actually, it was described as a document to end the war and restore the peace. That's the document description itself, and what I'm trying to ascertain is whether or not you or others, both in the Executive Branch and in the legislative branch, thought about the restoration of the peace as one of the problems of the future.

Dr. SCHLESINGER. Certainly we would and should have. As you know, we came out of Vietnam, there was—when Secretary Laird was in office there was enhancement plus, we were putting a great deal of equipment and supplies into Vietnam for the South Vietnamese forces, and we had the AID mission over there to help the Vietnamese, but our role became much more circumscribed once our own fighting forces were withdrawn.

Now, when you mentioned that—we had a cease-fire, but the cease-fire had problems with it in that the North Vietnamese and V.C. forces were left in place. They did not withdraw to the extent that they had committed to, and it left South Vietnam without strategic depth, so under those circumstances the creation of a true peace was going to be very difficult. We were hopeful, or at least I was hopeful.

Senator KERREY. Again, let me press this a bit.

You might, on your flight on the Concord, find it interesting to read the entire address that President Nixon gave on the March 29, 1973. It was not just a press conference in which he announced that all the POWs were home. In fact, what he said was, all our American POWs are on their way home, and it was a longer speech that he gave trying to describe his vision of the future.

As I read the speech, there was a long segment on domestic affairs, some on foreign affairs as well, and what I'm trying to ascertain is whether or not this peace agreement was heavily weighted in the direction of ending the war, period, or stated more accurately, ending U.S. involvement in the war, and that the measure of the treaty's success was that it ended—not just the Administration, but the legislative branch as well, and perhaps more fairly the American people—that it ended our involvement in the war, and if it accomplished that and satisfied that test, it was a satisfactory agreement.

Dr. SCHLESINGER. I think that that is a fair observation, and I think—this is a personal judgment, this is not an official position—that it was the United States' desire to withdraw its forces from

South Vietnam. It was eager to do so, and the agreement undoubtedly was weighted in the direction, as you put it, of withdrawal.

Senator KERREY. When you were at Rand in the late middle-sixties, Daniel Ellsberg and Fred Ickley were asked, in transition, to produce a document. I have not actually read the document, but just note they were asked to produce a document providing a range of options for the Administration in regards to Vietnam.

As I said, I have not read it. I understand the document is still classified, but it presents a range of options. Were you familiar with the presentation of that document?

Dr. SCHLESINGER. No, I was not. And I spent very little time on that. I was the Director of Strategic Forces in that period, and I was primarily concerned with the Soviet Union and NATO, rather than Vietnam itself. I followed Vietnam to some slight degree, but more out of professional curiosity than out of direct involvement.

Senator KERREY. Again, I am trying to ascertain whether or not there is any historical sense for the purpose of our engagement there, and whether or not any of that survived in 1973. In other words, again, as to the question of planning for the future, whether or not we thought of Southeast Asia as a part of our foreign policy future.

Dr. SCHLESINGER. I think that by the early seventies, the general view was that perhaps it had been unwise to become engaged in Southeast Asia, and that if we were disengaged, that Southeast Asia would not loom large in the future.

As you will recall, in the mid-sixties we went into Southeast Asia out of fear of the Chinese Communists, and what Lim Biao was talking about, surrounding the cities of the world by a rural force. And by the time of the Shanghai communique in 1972, fears about Vietnam as the cat's paw of Communist China seemed to be pretty distant and far off. So I think that some of the strategic objectives which rightly or wrongly drove us into Vietnam had gone away.

Senator KERREY. I recall, as well, from my knowledge of the history of the time, that Indonesia was still, at least in the early sixties, a question mark. Japan was still a new democracy, so sea lanes out to Japan were in doubt. I am just—

Dr. SCHLESINGER. Yes, sir.

Senator KERREY. I am trying to ascertain whether, in 1973, however, we looked and saw this idea of restoring the peace as something that the United States had an obligation to do. And very specifically on that point, do you think—although he did not ask for it in his March 29, speech, had President Nixon come to the Congress in March 1969, let us say April 1969. Had he come to the Congress and had he not been involved with Watergate, and asked the American people for economic assistance to South and North Vietnam, do you think the American people would have been supportive of that request?

Dr. SCHLESINGER. I think, indeed, that the American people would have been supportive. And we provided substantial economic assistance to Vietnam through the Defense Department appropriation. That appropriation got up to \$25 billion a year, or thereabouts, was not restricted to military by any means. In fact, we flooded South Vietnam, as I recall it, with consumer goods. There

were many who thought that that was doing damage to the country.

Chairman KERRY. Thank you, Senator Kerrey. Senator Grassley. Senator GRASSLEY. Mr. Chairman, in reviewing the depositions for these hearings it struck me that when you take a combination of Dr. Schlesinger's testimony and that of Dr. Kissinger, we can begin to understand the context of what may have unfolded in those crucial weeks and days of 1973. And if you view these testimonies as thesis and antithesis, it is my hope that the committee may be able to get a synthesis that will yield the truth of what we are after.

I found Dr. Schlesinger's testimony to be insightful and enlightening in his interpretation of what this committee has discovered in recent weeks. And I think you have a very unique vantage point. You had a close proximity to the decisionmaking process, and yet arms length. I think it provides us a kind of behavioral assessment of what was occurring at that time in our Government.

So, Mr. Chairman, I think it is very good that this will go a long ways, if true, toward eliminating some of the finger pointing, and instead toward explaining what unfolded, did, in fact, unfold.

I think I want to start by asking a very simple question. In your view, did we leave men behind?

Dr. SCHLESINGER. I think that, as of now, that I can come to no other conclusion, Senator. That does not say that there are any alive today, mind you. But in 1973, some were left behind.

Senator GRASSLEY. But I appreciate your answer, and then follow it up again with just what you base that on?

Dr. SCHLESINGER. In 1973, given the record of Communist regimes, Korea, the Soviet Union itself, Communist China, they had followed a practice of holding back people: not in large numbers, but in small numbers. Despite the Paris agreements, there was no reason, in my judgment, to assume that the North Vietnamese would release everybody.

In the summer of 1973, I was recently reminded by my special assistant that some of the people—he monitored this program for me—that some of the senior military had become wrathful about the North Vietnamese because they had engaged in beatings and torture of some of our prisoners of war, and that some of them believed that they had been so badly beaten that prior to the release that started in—when was it, early March—the release that started in early March, that they had taken some of our people away and executed them so that they could not be returned to the United States, since they had been badly beaten.

Now that was their reaction at that time. In addition to those reactions, as I look at the intelligence documentation now and review it with some of the people with whom I worked, and in particular in Laos, it is evident, I think, that the Laotians gave no true accounting of the Americans that had been in Laos.

That that list of 10 people that came out, people who had probably been taken by the North Vietnamese rather than the Pathet Lao, we were—and this is, once again, in retrospect—it's plain that the list was very short and could only be explained as true if the Pathet Lao and others had engaged in summary executions.

We had been in communication after flights were knocked down over Laos with the people on the ground, and those people did not appear on the lists. So one must assume, either that the other side engaged in executions, or alternatively that the list was incomplete.

Senator GRASSLEY. In your deposition—

Chairman KERRY. There is another—I do not discount at all what you have said and I accept it and I think it is very important testimony, but there are a couple of other possibilities. One is, obviously, that people were on the ground and they were killed—not summarily executed, but killed, as some prisoners reported that their wing man or their radar set person was killed in the process of the evasion. And second, the jungle itself may have claimed some.

So I think there are two other—not to discount anything you have said, but there are those other two possibilities.

Dr. SCHLESINGER. Yes, sir. I was referring to the fact that with some of the people who had been down, we were in communication, and then there was no subsequent.

Senator GRASSLEY. What is your view of what, in the case of Laos, happened to the Americans there who were prisoners?

Dr. SCHLESINGER. It's pure speculation, Senator. The agreement with Laos was not part of the general accord; it was signed later. The United States never officially acknowledged the war in Laos. The Pathet Lao, which certainly had hostile feelings toward the United States and was not as well disciplined as the North Vietnamese forces or the VC, may not have felt obliged, or they may have felt that this was an appropriate way of revenging themselves on the Americans for this undeclared war—for this unacknowledged war.

Senator GRASSLEY. In your deposition you state that by February or March 1973, Dr. Kissinger would have had a sharply diminished interest with regard to Vietnam. You suggest that this may be a prime reason that details of the agreement may not have been on the mind of the White House. That is from page 20 of your deposition.

I would just like to have some elaboration of your comment.

Dr. SCHLESINGER. I had better review that. It would be—I think I referred to an understandable diminution of interest on his part.

Senator GRASSLEY. Yes.

Dr. SCHLESINGER. I said that he had a big portfolio of activities, and the fact that the agreement was signed and it would take some time to work out and could be shifted to other elements of the bureaucracy meant that he, as a high policy official, could turn to those policy issues that demanded attention.

So I think that the diminished attention was we have got that signed, and now we can go to other matters. This was not the only thing on Dr. Kissinger's plate. So I said that his focus of attention—somebody in that deposition used the word did his interest diminish. And I said no, the focus of his attention shifted elsewhere.

Senator GRASSLEY. Thank you, Mr. Chairman.

Chairman KERRY. Thank you very much, Senator Grassley. Senator Kassebaum.

Senator KASSEBAUM. Mr. Secretary, I would like to ask, in many ways you were only at the CIA briefly and there was an interim period there where obviously it was hard to track either CIA or Defense on this aspect. And particularly at this period of time when there seemed to be a question—obviously great uncertainty and a general belief that those lists were not accurate, that the North Vietnamese had clearly sent a list in which they had agreed to include all prisoners of war in Indochina, that those in Laos were missing until eventually they came up with the 10.

There have been those who have said what leverage did we have to force a greater accounting, and one of the aspects under consideration was renewed bombing. Were you a part of any of these discussions in either your role at CIA or Defense?

Dr. SCHLESINGER. I was not any part of this discussion when I was at Defense. Indeed, just at the time I became Secretary of Defense the Congress had passed an injunction, a law that stated that no U.S. military forces would be used in, around, or over the states of Indochina, with a cutoff date for Cambodia. So that was no longer a possibility with regard to Vietnam or Laos at the time I was at the Pentagon.

I believe that this was discussed at meetings of the WSAG, which is a subcommittee, as it were, of the NSC, at which I may have been in attendance in April, March, somewhere in that time-frame. It was not my responsibility, however, as the intelligence officer, to decide on policy. I listened; I cannot now recall the discussions.

Senator KASSEBAUM. In your view, looking back and analyzing the role of the CIA—and was the DIA active at that time, Defense Intelligence? Did it play a role at all?

Dr. SCHLESINGER. Yes, the DIA would have a primary responsibility of gathering information with regard to military personnel who may have disappeared in Southeast Asia, and to advise the Secretary of Defense and the Joint Chiefs of Staff accordingly.

Senator KASSEBAUM. Were they playing a role when you became Secretary of Defense?

Dr. SCHLESINGER. Oh, yes, indeed. Yes, indeed. That it was a continuing responsibility. As I mentioned in my opening remarks, one of the things that I was assured, that we were vigorously pursuing any intelligence that we could gather with regard to continued MIAs or POWs in the follow-on states to Indochina.

Senator KASSEBAUM. From what you know having briefly worn the hat of Director of CIA and then Defense, was there good coordination between the intelligence of CIA and DIA, or was there any coordination whatsoever?

Dr. SCHLESINGER. Oh, I think that there was excellent coordination. Mr. Carver, whom I mentioned earlier, would regularly brief the Secretary of Defense. All information would be fed into the Department of Defense in preparation for formal reports by the DIA to either the JCS or to the Secretary.

Senator KASSEBAUM. But I mean between CIA intelligence and DIA.

Dr. SCHLESINGER. Oh, yes, they were—in my judgment, in my reflective judgment, yes, indeed, there was excellent coordination on that. I don't think our problem was the problem of intelligence, Senator Kassebaum.

Senator KASSEBAUM. No, but it seems to me, as maybe Senator Kerrey mentioned, that it is frustrating to get a handle on, particularly, the situation in Laos. And while it may be, as some have pointed out, just the type of environment it was, impossible to know a bit better what happened, it seems to me we did not have the kind of accounting that at least would have given us some assurance that the right and left hand maybe were working in conjunction there. Maybe it was impossible under the circumstances to do so.

Dr. SCHLESINGER. I don't think that we had a problem with regard to intelligence, Senator Kassebaum. I think that the intelligence community worked closely together on this issue, and that the general position of the intelligence community was probably reflected in Secretary Richardson's memorandum to the White House.

Senator KASSEBAUM. Thank you.

Chairman KERRY. Thank you, Senator Kassebaum. We do not have a lot of time left, but I would like to try to quickly focus on a couple of key areas, if we can.

No. 1, while you have said that you are convinced that some people may have been left behind, are you referring to Laos or Vietnam or both?

Dr. SCHLESINGER. I have a high probability assessment that people were left behind in Laos and a medium probability assessment with regard to Vietnam. I think that of the various parties, the North Vietnamese had the strongest incentive on the other side to be forthcoming, but I doubt that that applied to the provisional government of Vietnam, and even the North Vietnamese were not enormously forthcoming.

Chairman KERRY. What is interesting to note is that as you review all the cases that are the most probable for somebody to have been alive, as you said—or not most probable; we have evidence someone was alive and on the ground or in the system.

What is interesting is that at the time of Operation Homecoming, none of those prisoners who returned reported that any of those individuals were, in fact, in their system, or that they knew of them being alive at that period of time. So there is evidence that they were last known to be alive there. Now that is something we have culled over a period of time.

I would like to ask you, first of all, what do you believe? I mean you are an old hand at Government. You are one of our so-called wise people today. You have been in a number of positions, you have advised and watched the way Government works, and I would like to ask your judgment. And while I recognize it is personal judgment, I would like to ask it.

What do you think about the prospects, based on the intelligence reviewed and the people you have talked to, that someone would be alive and held by a government in one of those countries today?

Dr. SCHLESINGER. I believe those prospects would be very slim, Mr. Chairman, as of now. But it's conceivable that one or two may have survived. One or two, or a handful.

Chairman KERRY. What happened back in 1973? I would like to draw this out a little bit. We were pressing for full accountability.

We were pressing for the return of all prisoners. It was a major issue.

It was one of the major leverages of the negotiations themselves. Is that correct? The Vietnamese knew we wanted all the POWs back. We laid that on the table as a principle issue.

Dr. SCHLESINGER. Leverage in that sense, Senator. I thought initially when you mentioned leverage that you meant we had leverage. You're saying it was the other side that had the leverage, and that would give them an incentive to hold back.

Chairman KERRY. We clearly had diminishing leverage by the day, and there is no issue as to that. But it seems to have just disappeared. It seemed to just get washed away at that period of time.

We raised with you the question in deposition of the directive from Admiral Moorer issued March 22, 1973. And this directive ordered a halt in American troop withdrawals pending the plan for release of all American POWs throughout Indochina, including those thought to be held in Laos.

One day later, March 23, a new order went out from Admiral Moorer countermanding the March 22, instructions, saying instead that we would withdraw in return for release of the 10 POWs captured in Laos even though they were captured by North Vietnam and not the Pathet Lao. Why did we do a reversal, and were you aware of that reversal?

Dr. SCHLESINGER. No, I was not aware of that reversal until the time of my deposition, when Mr. Kravitz showed me those two memoranda. Why would that have occurred? I assume that after the first cable went out that there were second thoughts, as it were, and Admiral Moorer was ordered to reverse the position that he had taken on March 22.

Chairman KERRY. Any comments as to why it would be? Totally conjecture on your part, I take it?

Dr. SCHLESINGER. I think that it would be, if I may conjecture, that the initial order went out when these bastards aren't returning our people. There was an angry reaction at the Pentagon, and let's hold up the withdrawal. And that one way or another that was approved at the highest levels.

And I don't know how that came about, but overnight there probably were second thoughts. Our leverage is very limited, and if we make a fuss, we will not achieve our objectives, and we will initiate the withdrawal, and we will have troubles with the public, the press, and the Congress, et cetera. I assume that those were the calculations overnight.

Chairman KERRY. In effect, then, you're saying that the words, full accountability and the process within the treaty, in fact, were only words; that there was no mechanism by which we really could enforce because of the political situation, and the circumstances we found ourselves in. Is that true?

Dr. SCHLESINGER. Well, I wasn't suggesting that, but I certainly accept that definition, that judgment. During the summer when I was at the Department, after I took over the Department of Defense, we were valiantly going—the Department was valiantly going through the four power joint committee demanding access to the sites and so on. The North Vietnamese and the provisional gov-

ernment of Vietnam never responded, or never gave us access. But we continued.

We, at the Pentagon at least, were prepared to demand our rights to accountability. I think that there was still hope in the summer that the other side would ultimately prove to be reasonable. It was that dependence on correct behavior on the part of the North Vietnamese was basically all that we were left with.

Chairman KERRY. Now, in your job as Deputy of Defense, you had working with you as a Deputy to the Secretary of Defense—he was there when you got there—Deputy Secretary William Clements. Is that correct?

Dr. SCHLESINGER. That is correct.

Chairman KERRY. We have a memorandum here May 22, 1973 regarding U.S. personnel unaccounted for after Homecoming. In this memorandum, there is a handwritten note from Mr. Clements, Secretary Clements, saying: I want a memo sent to all Departments, services, ASDDI at JCS, that any reclassification from MIA to POW must first, underline, be cleared by me. MIA to KIA OK within each service, and no reviews signed by me.

So, in other words, it was OK for the service to take somebody from MIA to killed in action; take them off the list. But anybody who was, according to the service, to be classified as POW he had to clear.

And, in fact, subsequently on June 8, sent out a memorandum saying, I request that all actions which recommend reclassification of military personnel from missing in action to captured status be submitted to me for approval. Were you aware of that as Secretary of Defense?

Dr. SCHLESINGER. No, I certainly was not. I was shown that by Mr. Kravitz during the recent deposition. Now, Mr. Clements—

Chairman KERRY. What is your interpretation of that?

Dr. SCHLESINGER. Mr. Clements was at that time the acting secretary until—

Chairman KERRY. What was your reaction to that?

Dr. SCHLESINGER. Well, I was surprised. I was surprised. The reclassification was normally a responsibility of the services and while the Secretary of Defense or the Acting Secretary or his alter-ego, the Deputy Secretary, can reach out to any point in the Department—that seemed to me to be a very hot potato that normally the office of the Secretary of Defense would not be interested in reaching out for and would leave that responsibility to those who were charged with it; the services. So, I was somewhat surprised that the services had to seek approval for any reclassification to POW.

Chairman KERRY. Well, whose authority did Secretary Clements act on?

Dr. SCHLESINGER. The Secretary—he was Acting Secretary at that time.

Chairman KERRY. So you were not, in fact, there at that time.

Dr. SCHLESINGER. I was not in there.

Chairman KERRY. Your comment in your deposition was a little bolder, if I might say. I read to you. You said: I am both amazed and not amazed. When the Secretary of Defense, or in this case, the Acting Secretary wishes, he's the supreme authority in the

building, can act as a practical matter, take over responsibility. So that this reach into the military departments occurred does not amaze me as a procedural matter.

However, as I said, I am amazed in that the burden of dealing with a change of status was a heavy, heavy burden. And the normal reaction, my reaction, would have been—the normal reaction would have been, let the four service secretaries handle this baby.

So, I'm amazed, not as a procedural matter but as a substantive matter. It would not strike me as an area that a Secretary of Defense or his alter-ego would have gotten involved into unless there were a powerful motive—powerful other motive to get involved.

What would that motive have been?

Dr. SCHLESINGER. Well, I think that the—by this time, given the history, it was plain that these issues were fraught with political sensitivity. And I presume, although I have not discussed this with Bill Clements, that because of that political sensitivity that he wanted the services not to reclassify. And it may be that the situation in Laos was of particular sensitivity.

Chairman KERRY. Do you know what that sounds like to me, though. And I think you are skirting around it. But it sounds like the political sensitivity was such that there was not a willingness to confront the truth. Let us push this away.

We are not going to classify somebody as a POW even if the evidence shows they might be because it is too difficult to deal with.

Dr. SCHLESINGER. I agree with that formulation, Mr. Chairman. You asked me what the motive was. You did not ask me for an assessment of the motive.

Chairman KERRY. Well, you said in your deposition, on page 80, that Bill Clements had been urged, or hinted, that it would be inconvenient that prisoners of war would be stated to still be there. And so there was a denial of 60 to 75 requests, page 80 and 81, or I think it was 50 to 75, you said. That was a question back to you.

Dr. SCHLESINGER. Well, I said at the outset, I don't know what—I don't know that one can draw any firm conclusions from this evidence that was presented to me by Mr. Kravitz. But I think that one can develop a hypothesis that may or may not be correct.

It may have been that Mr. Clements had been urged or hinted to that it would be inconvenient for prisoners of war to suddenly be rediscovered, as it were, in the region, because it would leave us with little—

Chairman KERRY. Little recourse?

Dr. SCHLESINGER. Little that we could do under the circumstances other than the renewal of the bombing and so on.

Chairman KERRY. We do not have a lot of time. I know other colleagues want to ask questions. How much time—how much leeway do you have, Mr. Secretary?

Dr. SCHLESINGER. Can we go on for another 10 minutes or so?

Vice Chairman SMITH. Let me just quickly continue along the same vein there. Mr. Clements, it just seems to me, went far beyond what is normal practice, if you will. And I realize that you do not know his motive, and I am not trying to question you on that. I think he had a motive. It is pretty apparent.

As a matter of fact, you said, on page 80 in your deposition, your hypothesis would be that Bill Clements had been urged or hinted that it would be inconvenient, as Senator Kerry said, that POWs be stated to still be there.

Now, that in June. June 5, as a matter of fact, 1973, or June 8. And on May 19, 1973, the DOD comptroller's office, in a memorandum for the Secretary of Defense, lists 69 U.S. military personnel as currently captured in Laos. So, it is bizarre, to say the least.

And let me just pick up on another point along the same vein. On July 17, in a memorandum for the President, it is interesting that Clements says to the President a direct contradiction to what he said to the service secretaries when he said to the service secretaries, in essence, let me know before we—you know, I will do the classifying. If we are going to put anybody on as a POW, I will take care of that.

But he said to the President—he defended the Secretary's right to do it. And he said, in actually—I am quoting here: neither precipitous status changes nor assessment of such changes, partial or complete, is legally or morally justified.

In my view, the status determination process, as established by law and experience, should be allowed to function as prescribed if we are to maintain fairness, credibility, and consistency. It is not our intent to write off our missing men prematurely, but at the same time, we cannot condone building undue hope for family members without justification.

So, he reported to the President, in any official memorandum, which he signed, the direct opposite of what he did. Do you have any other insight into that?

I mean, I know he was the Acting Secretary of Defense when you came in, so he did not report to you. But he had a lot of movement here, and that would indicate to me that maybe the President did not know what he was doing. I do not know, but it seems like he was covering some bases here with that memorandum, all in this timeframe.

You have prisoners, at least people saying—the intelligence community reporting to DOD. He had it, I am sure. He was the acting DOD Secretary. He gets that on May 19. Robert Kingston, on May 21, tells the Associated Press there is no indication any Americans listed as missing in action are still alive. That is a direct contradiction to the statement on May 19.

And I am just—suddenly this thing changes. So, I would appreciate any insight or offer of a motive that you might have based on your position.

Dr. SCHLESINGER. The earlier memorandum that you cited may have been dictated by Mr. Clements or written at his instruction, and probably reflected his—a sense of urgency on his part. The later memorandum, the one to the President, probably was written by somebody else, as you say, to cover the bases and was sent to the President, but that it was not a reflection of the sense of urgency that Mr. Clements felt about this problem.

Vice Chairman SMITH. What was the reaction of the service secretaries to that memo? I mean, do you know, formally or informally? They had to be a little bit upset with it.

Dr. SCHLESINGER. Well, most of them are still around, so you might ask them. I don't think that they could possibly have been pleased. The responsibility lies with the services for personnel. This was a very delicate matter, and I suspect that the service secretaries must have been somewhat astonished.

Vice Chairman SMITH. Mr. Chairman, I will yield because I know that the Secretary has to yield and there are a couple other Members who have come in.

Chairman KERRY. Thank you very much, Senator Smith. Senator Daschle, I understand you do not have any questions?

Senator DASCHLE. That is correct.

Chairman KERRY. Senator Robb?

Senator ROBB. Thank you, Mr. Chairman. I just have one very brief question. I followed most of the testimony that Secretary Schlesinger has given on the monitor, although I was not able to be in the room for part of it. And, Mr. Secretary, let me say that your candor in assessing some of the things that have happened quite a number of years ago is very useful.

I wonder if you could just draw some conclusion. Let me say, parenthetically, that the responsibility of this committee, of course, is to try to sort out historically all of the facts, and to give the American people the most thorough factual presentation and analysis of what happened.

But, I always like to look ahead a little bit, and it is clear—particularly last week. I spent several hours reviewing some of the documents that, I think for the most part, have been declassified now, that with the normal compartmentalization that occurs within various branches of Government, there is always a chance that relevant information that one part of Government might want to act upon is not available to another.

You have held top positions in a variety of different posts where some of the same information would have been exchanged. You have held posts within different administrations. I wonder if there are any lessons that you can share with us based on your subsequent analysis of what happened in this regard. Not so much attempting to point fingers at individuals, but with respect to the coordination of intelligence information or information exchange with respect to sensitive information in the government.

And, specifically, what Government officials ought to do when they are appraised of the fact that there is information that is somehow brought into their domain which is inconsistent with the public message that the Government is promulgating at the time? If you could just reflect on the concerns that are underlying most of our inquiry here this morning in that context, I would appreciate it.

Dr. SCHLESINGER. That's a very difficult question. In the first place, in this episode, this set of episodes, as I mentioned to Senator Kassebaum, I don't think that the intelligence availability or the distribution of intelligence was the problem.

I think that the intelligence was widely enough available. It certainly was available to the senior figures in the Department of Defense. I think that the fact that Secretary Richardson, Mr. Eagleburger, and others were concerned enough to talk to the White

House about it shows that the problem was not a problem of intelligence in this case.

The second point is that from time to time the restriction on intelligence simply to protect sources is such that many who might benefit from having that intelligence are denied that because it would reveal certain sources. And in that case, in those cases, one can only weigh the cost and the benefit. The benefit of wider distribution; the cost of the risk to revealing sources.

The third point is that from time to time intelligence is denied not simply to protect sources but to hold that intelligence in a narrow circle; to deny it to those who are outside of that circle either for reasons of internal bargaining or the like. That is, of course, not justified in the way that denial on a careful cost-benefit basis of those who may have access to the intelligence is legitimate.

And, finally, you raised the question, what happens when it becomes clear to public officials that there is a difference between what is available and what the public position of an Administration may be. That is—under those circumstances, it is quite an embarrassment, and it puts those officials in a difficult position.

And I think that some of the officials in the Pentagon in that period of March and April felt themselves to be in a very difficult position because they did not concur with the publicly stated position of the Administration at that time, but they are also loyal members of an Administration. And I think that such people try to be as supportive of the official line as they can be without deviating—clearly deviating from the truth.

Senator ROBB. On that point, Mr. Secretary, what avenues would be appropriate for individuals possessed of an apparent discrepancy between the official position and knowledge that they held through some intelligence sources?

What avenues would normally be available for that individual within the constraints of being loyal to the superiors, the chain of command so to speak, to raise the likelihood of an inconsistency so that it could be fairly resolved by someone with that authority?

Dr. SCHLESINGER. I think that there are formal channels of appeal in certain agencies. There's a right to appeal directly to the agency head. Such procedures probably could be strengthened.

There is the possibility in these areas, quite inappropriate, of leaks to the press. I say they are inappropriate, but they do occur. Sometimes those who feel that the official line is in error are in error themselves, and such people may make a public fuss and it turns out that it is they that have the excess imagination, so it's a very difficult problem to deal with.

I have long felt that particularly in intelligence, Senator Robb, that we ought to have a mechanism for devil's advocacy because too frequently intelligence judgments that might be changed are not challenged because of the tendency of all human beings in these groups, or most human beings, to go along with the standard line of the agency or the party, and that an officially charged responsibility for devil's advocacy would be helpful in matters of intelligence.

Senator ROBB. Thank you, Mr. Secretary.
Chairman KERRY. Senator Kerrey.

Senator KERREY. Mr. Secretary, I know you have to leave. I will call your attention to something that I will actually not ask you a question about because I know it has probably come to you for the first time.

There is a memo on March 28, from Secretary of Defense Richardson to the National Security Advisor, Mr. Kissinger, wherein he talks about the problem of unaccounted for MIAs in Laos, 350 names that DIA holds which is—they had released 10. That's 2½ percent of the list, wherein the NVA had released 45 percent and the PRG had released 20 percent.

It goes on to recommend a course of action, including strong diplomatic action, and increased and obvious reconnaissance over both North and South Laos as well as the movement of aircraft carriers, a new aircraft carrier into the South China Sea.

Then I call your attention to a now-unclassified document wherein the National Security Advisor in a meeting with Le Duc Tho and other members, including Nguyen Co Thach on May 23, where he appears to be asking explicitly for the North Vietnamese to say in writing that there are no additional Americans being held. The North Vietnamese will not oblige him.

I would like to ask you to comment rather on that, upon something you were deposed about, and that was an April 11, 1973 meeting that the President had with Roger Shields. There was an earlier encounter between Mr. Shields and Mr. Clements during which Mr. Clements said I don't believe you hear me, Roger, they're all dead. This April 11, meeting occurred a day prior to April 12, public statements that Roger Shields made in regards to Laotian MIAs that they were all home.

I would just like to have you publicly comment on what your reaction was when you heard about the April 11, meeting.

Dr. SCHLESINGER. May I start somewhat earlier in your questioning, Senator? I think I mentioned—

Senator KERREY. By the way, it's on page 87 of your deposition, if you want to refer to it.

Dr. SCHLESINGER. I think I mentioned in the deposition that in response to Secretary Richardson's recommendations we did not know what was going on behind the scenes.

I had not known that Dr. Kissinger made that approach to Le Duc Tho, but one must assume that he had to weigh the responses of the Russians and the North Vietnamese. It was easier for all of us in the Pentagon to demand action, or they must be persuaded. He had a much broader portfolio.

Now, with regard to Dr. Shields—what page did you mention?

Senator KERREY. Page 87. The question begins on page 87.

Dr. SCHLESINGER. Once again, I was informed about that meeting at the deposition, and by chance yesterday I picked up the New York Times. I said that I thought Dr. Shields, in the deposition, that he was devoted to this activity and that he would never do anything willingly that would militate against the achievement of freedom for anybody in that part of Southeast Asia, and I picked up the Times yesterday, the New York Times, and there's a quote from him:

I have spent a large part of my life and put a lot of emotion into this, Shields said. It was such an enormous issue and we were deal-

ing with human beings. I knew their wives, I knew their sisters, I knew their brothers. Though he is years away from direct involvement, Mr. Shields said he is still invited to weddings and the other family events by relatives of the missing.

With regard to that meeting, one can—meetings between the President and Deputy Assistant Secretaries of Defense are not a commonplace occurrence. Sometimes Cabinet officers do not get to see the President all that frequently. So one may consider the possibility that Shields was being leaned on in that meeting to be reticent about what he might say publicly about the issue of MIAs and POWs in Southeast Asia.

Senator KERREY. Thank you.

Chairman KERRY. Mr. Secretary, thank you very much. We have some more questions. We would like to keep the record open, if we could ask your consent to perhaps do some followup questions in writing.

We are very appreciative of your testimony today. Dr. Shields will be testifying on Thursday. He's been here once. We'll have a chance to follow up on these matters, but I think it's been very helpful.

You've shed some light on some important areas and raised some provocative questions, and I want to thank you on behalf of the committee. I know you made a very special effort in between your travels to be here, and we are most appreciative of your voluntary efforts to accede to the committee's needs.

Dr. SCHLESINGER. Thank you, Mr. Chairman, and thank you, Members of the committee, and I wish to express particular appreciation for accommodating my schedule. Thank you.

Chairman KERRY. Thank you very much, sir. We appreciate it. If we could call Secretary Mel Laird, please.

Senator GRASSLEY. Mr. Chairman, before he gets seated—before Mr. Laird starts, I would like to urge all the Members of the committee to pay special attention to Dr. Schlesinger's deposition. It's about 100 pages long. I think it's very valuable, for instance, before Dr. Kissinger comes tomorrow, but also it seemed to me like, as I've read it, a very major document for the rest of our committee's work and for the conclusions we have to draw.

Chairman KERRY. I appreciate the comment, Senator Grassley. It is being made a part of the record of these hearings, and ultimately will be made one of our public documents.

Mr. Secretary, I'm sorry to disturb you. If I could ask you to rise so we could swear you, as we are all witnesses. Would you raise your right hand? Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LAIRD. I do, so help me God.

Chairman KERRY. Would you quickly identify yourself for the record, and your current occupation?

TESTIMONY OF MELVIN R. LAIRD, SECRETARY OF DEFENSE,
1969-1973

Mr. LAIRD. My name is Melvin Laird. I am currently serving on the board of the Reader's Digest Association and I am senior counselor for international and national affairs for the Reader's Digest

Association in Pleasantville, New York. I have occupied that position since 1974. I also serve on the De Witt Wallace-Readers Digest Foundation Board, the Lila Wallace-Reader's Digest Foundation Board, and the several trusts that were set up when the Wallaces both passed away and left their stock to nine different charitable trusts. I serve on several corporate boards and some twenty non-profit boards.

Prior to that time, I served as counselor to the President for domestic affairs in 1973 and 1974. I was Secretary of Defense from January 21, 1969 until Elliot Richardson was finally confirmed by the Senate in late January 1973. He was held up for about a week and I didn't have a deputy, so I had to serve an extra week or 10 days, although I had ordered a taxicab to pick me up January 21, 1969, I announced on being appointed that I would serve no longer than 4 years in that position.

Prior to that time, I was elected nine terms to the Congress of the United States from the Northern and Central Part of Wisconsin. I enjoyed that service very much as a Member of the House of Representatives. I was in the Wisconsin State Senate for a short period of time, about 6 years, immediately after being discharged from the U.S. Navy, in which I enlisted in 1942 and served until 1946.

Prior to that time, I was a student at Carleton College in Northfield, Minnesota.

Chairman KERRY. Thank you very much, sir. We are delighted to welcome you back here. We thank you for the time you have made available to the committee for deposition and for some conversations on the telephone.

As I said earlier today before you came here, there is no question in every Member of the committee's mind that this is not the preferred venue for any of our witnesses here today, and I might add, none of us are elated by the notion that 20 years later we are examining this issue, but obviously it is one of great importance.

It is an issue of conscience, and we are here, as I said earlier, not to refight the war or to renegotiate the treaty, but to really try to find out what happened—what were people thinking, what did they know back then regarding the potential of POW/MIAs—and to help this committee to draw some conclusions so we can tell the American people the truth.

Mr. LAIRD. I'm glad to have this opportunity, Mr. Chairman, and I appreciate the committee calling me to be a witness. I think that I can add something to your whole, overall review of the POW/MIA question.

As you know, when I became Secretary of Defense, I inherited a situation in Vietnam in which we had 550,000 men and some women in country on the ground. They were supported by 1,200,000 Air Force, Navy, and other military personnel all the way from Thailand to Guam, to Hawaii, to Korea, to Japan, and so the full force devoted at that particular time when I took office on January 21, was 1,700,000 men and women. They were all involved in the Vietnam struggle at that time. Some of you are familiar with the White Paper that I issued while a Member of Congress in 1964 and the updated White Paper of 1966. I outlined the change in Vietnam during the period of 1960 to 1966.

When I became Secretary of Defense, I felt it was very important to bring the POW/MIA question to public attention. It was the attitude of our Government at that time that we should not publically discuss the POW/MIA question. It was felt that it would somehow might hamper the secret negotiations which were going on at that time in Paris.

It was my firm belief that this attitude or policy should be changed. I had it on good authority as a member of the Defense Appropriations Committee on which I first began service in 1953 that the Geneva accords were not being followed by the North Vietnamese and that our prisoners of war were not being treated in accordance with those Geneva Conventions.

I was urged by many people not to go public on this POW/MIA issue. I remember Ambassador Harriman coming to see me and urging me not to go public on this issue. I felt as Secretary of Defense it was my responsibility. These men and women were my people. They were military people. If no one was going to speak out for them, at least the Secretary of Defense and the Department of Defense should take a firm, solid position that the Geneva accords were not being followed by the North Vietnamese.

You will note in testimony already received by your committee that several changes were immediately made. I brought to the Pentagon's public affairs office, Richard Capen, who now serves as our Ambassador to Spain, to start the whole public disclosure and discussion of the POW question.

He served in that position until I moved him over to the top legislative liaison position to help work on the POW/MIA question. He was replaced by General Chappy James who was a long-time friend of mine. Chappy had just closed our air base in Libya. He did a tremendous job in closing that base on a very short string. I put him in charge of the POW/MIA public affairs program. He helped attract public attention to the POW/MIA question and set up communications with the POW/MIA families involved. We went forward and helped the families to better organize and established the POW/MIA Scholarship Foundations.

We also developed an open door policy, as far as I was concerned, with the wives and families of the POWs and the missing in action. They always had the opportunity to talk to me directly on any issue.

I went ahead and authorized the organization very early the Son Tay raid. It was something that I talked to General Wheeler about early on. I thought it was important for us to show our concern about the POWs and those people that were missing in action. I asked General Wheeler early on to organize such an activity. The activity was finally organized, and we went forward with the Son Tay raid. Chairman Tom Moorer had taken over from Admiral Wheeler by that time.

I understand that you've had testimony before this committee that we did not appreciate the heroism and tremendous operation that went on to recover POWs at Son Tay. I can tell you that I appreciated it. I met with General Major and with Bull Simon on a regular basis. They told me it would take 6 months to get ready for that raid. They organized down in Florida. They took down and re-

built the whole Son Tay POW camp every day. We didn't want the Russian satellites to see it as they passed over.

They practiced down there, and I told them as soon as they were ready, they would go. They would not be interfered with by anybody. They wouldn't be interfered with by the Joint Staff, by anybody in the Pentagon, that when they were ready to go, they would go.

It so happened that at the time of the raid the prisoners had been moved. These brave men went in there very close to Hanoi, a long-distance operation from Thailand. Not anyone was seriously hurt. There was one broken ankle. But I want you to know that those people were recognized by me as soon as they got back. I was there to make awards to them to recognize their bravery. I was called up here to the Senate and was condemned for the raid by certain Senators that it probably was a great mistake because the prisoners of war weren't there.

Now, it was a 50-50 chance that prisoners of war would or would not be there, but I submit to you as Members of this committee that every prisoner of war in North Vietnam and also in the South knew about that raid. It gave them hope. We cared about them. It was a successful raid. From my standpoint it did show that we in the United States cared about our POWs/MIAs. We did care about them.

I got together with the wives and families of prisoners of war and missing. I shared many activities with them. I took them to Thanksgiving Dinner in Dallas and the Dallas football game to try to get attention for the plight of the POWs and the missing in action.

As you may recall from the Washington Post report of the last opening day of the Washington Senators baseball game. When the ball was thrown out I had the families of POWs there and had them throw out the first ball. It happened to be the last season of the Washington Senators, but at the time they threw out the first ball we didn't know that that was the end of the Washington Senators as far as the District of Columbia.

I can go over many examples of things that we did to get public attention for the plight of the POWs and MIAs, I think this change was a very important change.

I've heard about testimony here concerning Roger Shields. I brought Roger Shields into the Pentagon to work with Warren Nutter and Larry Eagleburger in the ISA group. I could go on, Senator. I know you're limited for time, but I've got a great story to tell about what we did to bring public attention to the plight of our POWs and MIAs.

As we took the troop levels down in Vietnam—they had gone up continually, up and up and up for 8 years. The American people were in a very difficult position at that time as far as their support was concerned. I had been critical of Secretary McNamara for borrowing supplies, ammunition, and equipment from all over the world. We had been following a policy of fight now, pay later. We had drawn down our stocks at NATO and tried to conduct this war on the basis of robbing Peter to pay Paul. I had been critical as a Member of Congress.

I had called in 1966 for the Administration to come to the Congress with a declaration of war, because we were in a position at that time where we had committed over 1,200,000 personnel.

I'll be glad to answer any of your questions.

Chairman KERRY. Mr. Secretary, thank you very much. Let me just say up-front that there is no question in this committee's mind about your commitment to the issue of POWs, the efforts that you took on their behalf. I think it's a matter of record that you helped to raise the consciousness. I know you worked with Ross Perot and others, and it was a consequence of that attention that indeed treatment was improved and I think lives were saved.

Mr. LAIRD. I think Ross Perot was very helpful, and I want to make that clear. We got in touch with him through Dick Capen and made him aware of this situation. He came aboard and was helpful. There were many others that were helpful. I could give you a whole list.

Chairman KERRY. No, no, I think the committee understands that. What I am trying to do is stipulate that that is not an issue here.

What I would like to do is move now to the point where we have this issue so visible, where indeed we have a Secretary of Defense who has inserted his concern for the POWs as it properly should have been, front and center into the consciousness of the American people and therefore into the negotiating process.

The question is, what happened after that? That is what we face as a committee today. Let me begin by asking you—and I know you have strong feelings on this from your deposition. You had feelings about language that was not in the accords that might have improved our ability to have accountability. You had strong feelings about enforceability and so forth, and we'll get into a lot of that.

But let me begin here. Do you accept, as evidence has been put in front of this committee from a number of different sources, documents, and individuals, that as of 1973 with Operation Homecoming there were people that we knew to be captured, believed to be captured, who did not come back?

Mr. LAIRD. I do not believe that. There were several lists that we got during this period, as you know, Mr. Chairman. We had lists come back on many occasions. We were trying to confirm POWs by hard evidence as best we could. The various services had a little different approach to the whole classification question, but they were generally about the same in their classification.

I was the first Secretary of Defense that met regularly with the service intelligence officers on a regular basis as well as with the head of DIA and NSA. The two people that I replaced within the very early part of my tenure were appointing a new man at DIA, General Bennett, and appointing a new man at NSA because that was very important as far as our intelligence gathering.

We had several lists given to us. There was the early list that was given by Cora Weiss, with which I think you are familiar, she was a peace activist. Then the Kennedy list came, and there was a discrepancy between the Cora Weiss list and the Kennedy list. It was about five differences in those two lists. I felt that those lists were inadequate. We had firm letter confirmations of at least 26 or

27 people that we knew of confirmed by letters had been alive at that particular time.

Now, when you get into the list that was finally given to the administration I believe January 27 or 28—

Chairman KERRY. There was one list on the 27th and another on the February 1.

Mr. LAIRD. In that particular time period I was not—responsible for those activities. I did not think at that time that those were full lists, but that was my gut reaction.

Chairman KERRY. As a former Secretary of Defense, as somebody who had ridden herd on this issue for some tough years of the war and some tough years in terms of our domestic politics—you were still in the White House as a special advisor to the President on domestic affairs, correct?

Mr. LAIRD. I wasn't there at that time. At that time I was out of Government. I stayed out of Government until, I think, around June 1. I think at that time I was traveling with one of your colleagues, Senator Warner. I may have been in Europe at that time.

Chairman KERRY. Let me come back, then, to the point in 1973 when you leave the Department. You had argued, had you not—let me first just clarify. It was your gut feeling that the lists were not complete, is that what you are saying?

Mr. LAIRD. It was my gut feeling that there were more. When I left, I think that we felt at that time—I think the last figures that we had were that the list of POWs probably would contain quite a few more names than that. We were disappointed. I was disappointed with the list because I hoped that there would be more on the list.

Chairman KERRY. And it is fair to say, according to your testimony previously, that the standards that the services applied to carry someone as POW were high, is that accurate?

Mr. LAIRD. They were high. They were very careful on the POW question, because they didn't want to raise the hopes of people in an undue fashion.

Chairman KERRY. We didn't want the families to have an expectation that was unfair.

Mr. LAIRD. And POW letters were really an important part of that intelligence. We also had other information which I related to you in my top secret testimony that we were getting as far as the POWs were concerned, and that did confirm, but the strongest evidence was of course letters.

Chairman KERRY. When you say letters, you are talking about letters from a POW.

Mr. LAIRD. Right. When I first became Secretary of Defense, the total number of letters that we had received since January 1, 1960 to February 1969, the total number of letters we'd received were about 620. After we went public in February 1969, by January 1972, the number of letters had gone up to almost 5,000. One thousand of those letters did come through various peace activists.

We were always glad to get those letters, because they did confirm the presence by handwritten notes of those POWs. By going public we were able to increase the number of letters and were able to verify more prisoners of war after we had gone public.

Chairman KERRY. Now, are you saying to the committee—I understand that many of the people who returned in Operation Homecoming in the 590 or so that were part of that there were letters confirming their existence as prisoners.

Mr. LAIRD. That's correct.

Chairman KERRY. Were there also letters confirming the existence of people—I believe there were some who did not come back.

Mr. LAIRD. Yes, there were, and of course some of those people we've had it confirmed from their colleagues in prison that some of them died while they were in captivity, after they had written some letters, and we've gotten that information. I've gotten that information from talking to my POW friends, in particular one member of your committee. I'm sorry he's not here today.

Chairman KERRY. John McCain is regrettably not here today. He will be here tomorrow. Can I just insert there—

Mr. LAIRD. He had a great influence on me because of my family connection not only with his father but also with his grandfather.

His grandfather—I served with his grandfather in the Pacific—I might point out that in the small community of Marshfield, WI, he was the first naval officer I ever saw. In 1933 and in 1934 he came to visit his brother, Harry McCain, who ran a dry goods store on the main street of Marshfield. I saw this man in this great white uniform and I followed him up and down the main street of Marshfield. I didn't get to see him again until I was in the Pacific aboard the destroyer U.S.S. *Maddox*. I think he was responsible for my joining the U.S. Navy.

But Senator McCain's father was also a very close friend of mine. He was a great lobbyist for the Navy. He was in charge of legislative liaison for the Navy in the 1950's. He was one of the greatest lobbyists for carriers I've ever seen.

He'd come to my office before the Defense Appropriations Committee. We'd meet each morning and he'd walk to the committee with me trying to sell me on carriers. Later on I saw him as CINCPAC and met with him and his wife on many occasions. He instilled in me their great concern for their son, who was a POW at that time. I've had a long association with the McCains.

Chairman KERRY. We appreciate that very much. I'm sorry Senator McCain—we will convey that to him. I know he knows it anyway, but we appreciate it.

Mr. Secretary, my time on this first round is up. If I could ask you, because of the time constraints here as we go through each of the Senators, if we could try to remain within the area of the current POW issues I think we are going to have a better chance—we have a long day today. We obviously want to be able to exhaust the questions we have.

Mr. LAIRD. I'll try to give you short answers. I'm very concerned about this issue, and I know the committee's doing a great job. I appreciate the job you're doing.

Chairman KERRY. I do want to come back, but in fairness to colleagues I also want to try to stick with the time here, so Senator Smith.

Vice Chairman SMITH. Thank you, Mr. Chairman. Thank you, Mr. Secretary. I apologize for my voice with the cold here. I know it has been a lot of years, but I am asking for you to be as specific

as you could be on this point. Just picking up on what Senator Kerry asked, if there were approximately 5,000 letters received from POWs, and if you take out those who returned, those prisoners who returned, you take out those who were accounted for from the debriefs as having died, approximately how many letters, ball park, were there from POWs that never returned and were never accounted for after you do all the deductions?

Mr. LAIRD. I haven't gone through that process. I understand they have in the Pentagon since the return of the POWs, and I understand you have those figures.

Vice Chairman SMITH. Does anybody on the staff have those figures, and if you do, I would appreciate having them.

Mr. LAIRD. I know at the time I left we had confirmations in the neighborhood of about 474, or 478 or take a few, confirmed by letter.

Vice Chairman SMITH. How many of those, roughly, were in Laos?

Mr. LAIRD. Our confirmations in Laos when I left—now, confirmations—I believe were five.

Vice Chairman SMITH. Five letters from people in Laos?

Mr. LAIRD. Right, five I believe as far as Laos was concerned. At that time, although we had a lot of shoot-downs over Laos, it was the best intelligence information at that time that the North Vietnamese were returning most of those captured individuals to the North.

The North Vietnamese occupied all of that particular territory on the Ho Chi Minh Trail, almost all of it, and fliers that were shot down in that area, we thought most of them surviving were being returned to the North, but I think we had five confirmations.

Vice Chairman SMITH. Let me shift focus a little bit away from just the letters into a more general sense regarding intelligence. I asked this question of Dr. Schlesinger as well. How would you assess—briefly, so I can get a couple more questions in, how would you assess the intelligence capabilities of the U.S. Government during the time that you were Secretary of Defense? When you were told or you had information either from the CIA or the DIA on your watch that there were prisoners in Laos and/or Vietnam, did you feel reasonably certain that information was accurate?

Mr. LAIRD. I felt fairly reasonably certain as far as the North was concerned. I felt very good about the South. I had a better feeling about Cambodia. I did not have a strong feeling that the intelligence coming out of Laos was outstanding. That was run by the State Department and the CIA, and we did not have our own assets there, but I did quiz the CIA on a weekly basis about that type of information.

Vice Chairman SMITH. There was a table of returnees that was put together at the time that the accords were signed. As you know, 591 I believe came back alive, and there were another couple of hundred over the last 20 years that have been accounted for, so we're looking in the vicinity of 800 people, but the actual table of expected returnees that we put together according to the information I have was 1,591.

These were people I assume from South Vietnam, North Vietnam, Laos, Cambodia, and China, who at least we had some reason

to believe through our intelligence were captured at least preliminarily. That does not mean that they were not killed after the capture. I do not mean to imply that.

Mr. LAIRD. I understand that, Senator.

Vice Chairman SMITH. Now, in Laos there were 256 carried on that list.

Mr. LAIRD. Shoot-downs.

Vice Chairman SMITH. As POWs.

Mr. LAIRD. These were people that we saw the chutes open.

Vice Chairman SMITH. You are familiar with Operation Egress Recap, correct?

Mr. LAIRD. Yes.

Vice Chairman SMITH. Could you just explain briefly what that is and what the purpose of it was?

Mr. LAIRD. The purpose of it was to gain further information and make it a little bit more difficult for the North Vietnamese.

Vice Chairman SMITH. And you went to the trouble, I guess, if you will, or the effort to go into preparations for counseling the families, preparations for the effects of when these POWs come back and what would have to happen when the families united and so forth, and this was done on a number of these POWs, expected POWs from Laos, was it not, this type of preparation?

Mr. LAIRD. Yes. We tried to prepare for Homecoming when it would occur. We did not know when it was going to occur, but we did prepare.

Vice Chairman SMITH. And included in that preparation in addition to family counseling and so forth was actually practicing medical evacuation flights out of Vientiane, correct?

Mr. LAIRD. That's correct.

Vice Chairman SMITH. Given all of that background, and knowing that you were involved in it and supportive of those efforts, were you somewhat surprised when President Nixon said in March 1973 that all the POWs were home, given the fact that Laos had never signed the Paris Peace Accords, given the fact that we were bombing Laos in April because of the North Vietnamese infiltration, and given the fact that we still had not had the implementation of a peace accord with Laos, with the Royal Lao and the Pathet Lao? Did that surprise you, that statement, No. 1, and No. 2, did you have any input into that statement?

Mr. LAIRD. Well, No. 1, first I had no input into the statement because I was not asked. Second, I think you have to be very careful about positive statements like that. Sometimes over in the White House they like to make kind of positive statements.

I remember the first speech on bombing in Cambodia. When it was made public. The President put in his speech that we were going to destroy the COSVN headquarters. I tried the best I could through the President, through the National Security Advisor Henry Kissinger, to get that out of the speech. The White House felt it added a lot to have the fact that we were going to destroy the COSVN headquarters.

The COSVN headquarters was always moving. It was moving through Cambodia and up and down the Ho Chi Minh Trail. We could pick them up through certain types of intelligence information, but they were very much of a moving target. You just can't

make pledges and be that positive when you're in that kind of a situation. I think that it's unfortunate sometimes that we try to make our statements quite that positive. I don't think anyone can give assurance like that.

Vice Chairman SMITH. My time is up. Let me just make one quick follow-up question. I am not trying to put you on the spot to answer information that you did not have at your disposal, and we are looking back 20 years, but it seems to me that you have an agreement.

I know it is difficult for some, looking back on it, to see what is happening here, but we had an accord signed with the Vietnamese. We did not have any accord signed with the Lao. The Pathet Lao and the Royal Lao then signed an agreement in February 1973. It was not implemented until the following year, in 1974. We lost people during that period of time in Laos. One of them was Emmett Kay, who came back.

So the question I have is, given the fact that we had not had that agreement, given the fact we were still receiving intelligence on Laos and still those in the communities both in DOD and CIA who believed that that information was relatively accurate, why would a statement like that be made?

Mr. LAIRD. I think it was unfortunate to be that positive.

Vice Chairman SMITH. So it was wrong?

Mr. LAIRD. I was not there, and I am not trying to pass judgment on this. But you have to be careful; you can't be that positive with the kind of intelligence information that we had when I left. I just don't think you can be that positive.

Vice Chairman SMITH. Thank you.

Chairman KERRY. Senator Kerrey.

Senator KERREY. Mr. Secretary, there was a great deal of secrecy that was a part of the policy. I mean there was a great deal of, it seems to me, classification that occurred based upon the desire to protect national interests and so forth. I would like to talk to you about that and talk to you about how it affected—and get you to talk to me about how you think it affected our capacity to carry out, not just the object of the war, but the diplomatic activity that attempted to end the war in an honorable fashion.

First of all, do you have an opinion upon the decision to keep the bombing of Cambodia that began on March 15, 1969 secret from the American people for, as I understand it, nearly a year? Do you have an opinion as to the advisability of that decision?

Mr. LAIRD. It was a mistake. I was on the other side of the issue, if you want the facts on it. I argued in the National Security Council—I was all for bombing in Cambodia because the North Vietnamese had taken that over these occupied territories. I wanted to hit those bases in Cambodia as I started the withdrawal of American troops.

I knew you couldn't keep it secret, because there were 10,000 people involved with that bombing—in Thailand, in Guam, outside of Vietnam. Those bases were outside of Vietnam. And I informed the President, the Secretary of State, and National Security Advisor Kissinger, at the time, that it would be impossible to keep that secret.

Senator KERREY. Why did they want to keep it secret?

Mr. LAIRD. They felt that because of the relationships in Cambodia, that it was a diplomatic reason that they wanted to keep it secret. My point was that having as many people as I had involved in those bombing raids, that it was impossible to keep it secret.

I was accused of leaking that to the New York Times, because they thought I was trying to justify my position at the National Security Council. I can assure you I didn't leak it, but when you've got 10,000 people knowing about an operation you can't keep it secret.

Senator KERREY. But when there was no objection by the Cambodian Government, was there some reconsideration immediately? I mean I can understand their concern; Cambodia was neutral at the time. But was there some reexamination? I am trying to discover if there was some over-arching desire?

Mr. LAIRD. Well I think they had had some certain visits with the prince. And I think the prince sort of suggested that they would just accept it as long as it wasn't made public. My point was that you can't keep something like that secret.

Senator KERREY. When did you first find out about the secret negotiations that were going on in Paris? Do you recall?

Mr. LAIRD. I imagine the first—

Senator KERREY. Were you notified before the public was notified?

Mr. LAIRD. I knew about the secret negotiations probably as soon as Ambassador Harriman went over there. I was a member of the—we had, at that time, a smaller committee that handled—in the House of Representatives that handled highly classified operations. And as a Member of the Defense Appropriations Committee, I was informed of those negotiations as they went forward in Paris. And I was kept informed regularly, of course, as Secretary of Defense.

Senator KERREY. You were in contact with Dr. Kissinger, then. He began, as I understand it, the secret negotiations some time in August 1969.

Mr. LAIRD. Well I'm talking about the secret negotiations—there were negotiations that were classified as secret that were going on there prior to 1969, too.

Senator KERREY. Well, but were you in contact with Dr. Kissinger in some way as to what he was negotiating?

Mr. LAIRD. Regularly, regularly. And I had other avenues of reporting that I outlined to this committee in my classified testimony on the means in which I was advised of those negotiations.

Senator KERREY. So from August 1969 on, then, you were aware that the negotiations were going on and had the opportunity to provide input. Did you think that the—

Mr. LAIRD. I think you have some of the memos; at least you showed me some of the memos that I had written on that, all the way through until November 10, 1972. I think you have my memo that outlined the essential points, some of the essential points that I felt were needed and necessary as far as the negotiations in Paris.

Senator KERREY. Did you object to the Defense Department having no one on site during the negotiations? During these secret negotiations there was no representation.

Mr. LAIRD. The responsibility was the Department of State, the manner in which these matters are handled.

Senator KERREY. Well, except in this—

Mr. LAIRD. But the President—the President, in this case with the approval, as I understand it, of the Secretary of State, authorized this additional channel. This additional channel was through Dr. Kissinger.

Senator KERREY. It was my understanding that the details of the negotiation were kept secret even from Secretary Rogers. Is that your understanding?

Mr. LAIRD. That's hard for me to believe.

Senator KERREY. Did you have a disagreement with Dr. Kissinger about the decision to release names on both sides of prisoners only on the date of the agreement, the signing of the agreement?

Mr. LAIRD. I think my original memo provided that the list should be delivered 6 months ahead of the actual cease-fire agreement.

Senator KERREY. What was the reason for that?

Mr. LAIRD. Well, I felt that it would give us a certain amount of time to go over it before the cease-fire took effect.

Senator KERREY. Was there also some considerable amount of suspicion on your part that the North Vietnamese would not follow through and abide by the terms of the agreement itself?

Mr. LAIRD. I started talking about that in 1969. And I think if you'll go over the transcript of the Face the Nation and the Meet the Press appearances that I made during that time, I outlined why I didn't think you could trust the North Vietnamese. They weren't following the Geneva accords that they had signed, as to the treatment of POWs and missing in action.

Senator KERREY. But in the absence of having somebody from the Defense Department as a part of the negotiation, or regular contact, did it not appear, or was it not difficult for you to carry that view into the negotiations itself?

Mr. LAIRD. No, I cannot fault Secretary Kissinger, and at that time he was National Security Advisor Kissinger. He kept me informed on a regular basis. I would talk to him almost every day, and I would have breakfast with him regularly.

And I cannot fault him as far as the flow of information is concerned, but my positions sometimes were different than his positions, as were my recommendations. I had great respect for Dr. Kissinger; I do until this day. He helped with a book in 1964 which I edited for Doubleday. I had known Secretary Kissinger for a long period of time. I got him on loan from Governor Rockefeller to help me with the Republican Platform in 1964 in San Francisco.

So there was a relationship. I did have great respect and admiration, and still do, for Dr. Kissinger.

Senator KERREY. My time is up. Mr. Secretary, I hope that I will have a chance to do some follow on. I just alert you my concern is not for whether or not Dr. Kissinger made mistakes, but my examination is on the question of whether or not the decision to keep secret from the American people not only what we were doing militarily but what we were doing diplomatically, had an impact upon our capacity to get a full accounting of the POWs.

Thank you, Mr. Chairman.

Chairman KERRY. Thank you, Senator Kerrey. Senator Kassebaum.

Senator KASSEBAUM. Secretary Laird, following on a bit about Dr. Kissinger, who was giving him the information regarding the prisoners of war for his negotiations? Did that come—

Mr. LAIRD. That would come from many sources. First, the services each were getting their own reports, some good some bad, DIA, NSA, CIA, and all of that information was available to Dr. Kissinger.

Senator KASSEBAUM. How precise do you think that those lists were? Are you comfortable that—well, you have spoken to discrepancies in the different lists.

Mr. LAIRD. We weren't—by the way, I wasn't being critical of the Kennedy list or the Cora Weiss list. We were glad to get that information, but it was not complete information and we knew of the existence of other POWs when those lists were delivered to us, Senator.

Senator KASSEBAUM. But did Dr. Kissinger have before him what was a consensus of the best information regarding the lists, the lists for Vietnam, the lists for Laos, when he was negotiating?

Mr. LAIRD. Yes, I think he had the best information available.

Senator KASSEBAUM. What type of information did the Vietnamese have regarding our lists?

Mr. LAIRD. We were not getting much information from the Vietnamese at that time. The Vietnamese, of course, made the Kennedy list, the North Vietnamese. The source of that list was the North Vietnamese and the Cora Weiss list was also from the North Vietnamese. And there were confirmations of POWs.

We felt there were more. As a matter of fact, I think I had a press conference immediately in which I showed pictures and gave out publicly pictures of other POWs that I knew were in the North at that time. We had solid, confirmed evidence that they were in the North.

Senator KASSEBAUM. Was the return of the prisoners of war top priority in the negotiations?

Mr. LAIRD. It was top priority as far as the Department of Defense was concerned. I think you have to discuss that with the Department of State and other agencies of the Government. This was a top priority item as far as I was concerned, as Secretary of Defense.

Senator KASSEBAUM. Much has been speculated on what kind of leverage, if any, we had at this juncture. But obviously one that some believed we had that we did not use was to continue bombing. Do you feel that would have been of any significance?

Mr. LAIRD. I think that that was an option that was available. I had left the Department of Defense at that time. I was no longer Secretary of Defense. But I do think you have to put yourself back into that time period and consider the attitude of the American people and their support of the war. It was shortly thereafter that the Congress passed legislation that the President couldn't use any U.S. military force or any military equipment to attack the North.

I think the Congress was expressing the position of the American people. It perhaps was unfortunate; I was sorry that the Congress withdrew the support for the South Vietnamese. As you know, the

Paris Accords provided that we could replace equipment lost in South Vietnam, but we could not send any additional new equipment. The Russians at that time were not only giving ammunition and replacements to the North, but they also, in the next 12 months, gave \$2.9 billion worth of new equipment to the North. This broke the back of the South Vietnamese. It was a violation of the Paris Peace Accords.

So it was a difficult period. And, Senator, I do feel you have to put yourself back in that period and look at the legislative expression of—the Senate and the House of Representatives at that time, by big votes, support was withdrawn.

Senator KASSEBAUM. Well I think that is very true. I think the climate of the time does very much enter in, and it is—

Mr. LAIRD. I believe there were other things that could have been done diplomatically. I think pressure should have been exerted to a much greater extent than it was diplomatically. The North Vietnamese, even at that time, were not honoring the Geneva accords as far as prisoners of war and missing in action were concerned. So I think that we could have mobilized to a greater extent public opinion throughout the world.

Senator KASSEBAUM. Even in March 1973, when we realized that the full lists really were not being accurately—

Mr. LAIRD. I believe that was the best option available to the United States at that time.

Senator KASSEBAUM. To not proceed with the agreements of the Paris Peace Accord.

Mr. LAIRD. The Peace Accord was signed, I believe, on the 27th.

Senator KASSEBAUM. But should we have thought—

Mr. LAIRD. I think as far as military action, now the only things that were taken care of during that period of time up until March were the withdrawals of American forces. And I believe that that withdrawal, when you got to the number of people that you had in Vietnam at that time, was probably only the diplomatic option. I do think the diplomatic option was still available.

Senator KASSEBAUM. Thank you.

Chairman KERRY. Thank you very much, Senator Kassebaum. Senator Grassley.

Senator GRASSLEY. Mr. Secretary, I want to follow-up on, and expand on what Senator Smith was discussing with you, particularly about Laos. And I would start with a communique that you—a memorandum that you wrote to the Joint Chiefs of Staff, September 9, 1971, and also the very same day on the same subject to the Secretary of State, William Rogers. And I will quote just part:

"In light of Ambassador Godley's repeated affirmation that information on POW/MIAs has the highest priority in his intelligence effort and that currently available controlled American sources, or CAS intelligence assets are sufficient to handle requirements, I have instead expressed to the Secretary of State and to the Director of Central Intelligence my concern that a lack of reliable information is hindering our efforts to recover our POW/MIAs. I have also requested a renewal of emphasis on intelligence related to prisoners of war in Laos."

And then similar to the Secretary of State, Mr. Rogers:

"Our efforts in this area continue, however, to be hindered by a lack of reliable intelligence information. I understand that Ambassador Godley believes that the current available CAS assets are adequate to collect all the available intelligence related to prisoners. I appreciate the effort which has been expanded. However, in light of our lack of success to date, I do not feel that we can be satisfied. Accordingly, I request that a renewed emphasis be directed toward an improvement of our intelligence regarding prisoners of war in Laos."

So I guess first of all, how good you felt our information on POWs was in Laos? And then in light of these memoranda, if you had the capability of doing anything about it, what, maybe, you were able to do?

Mr. LAIRD. As far as Laos was concerned, I was not satisfied with the information that we were getting at that time. That was the reason for my memoranda. That operation, as you know, was reporting to the State Department and to the CIA and not to the Department of Defense.

But I was not satisfied with the information, and I think you'll find that I expressed that on several occasions. Not only in meetings with various agencies of the Government, but also confirmed it in cables which I sent to the Ambassadors in country, not only in Laos but also in Cambodia.

Senator GRASSLEY. Do you feel that there was a correlation, then, between this inadequate intelligence information we had and the shortcomings of our operation there and the results of the war, our inability to get POWs out?

Mr. LAIRD. I'm not sure about whether we have POWs existing in 1973 and 1974, as far as confirmations are concerned. I understand that you've had testimony that there were 40 in Laos. I was told that by your committee staff. I had no hard intelligence evidence that there were 40 in Laos at the time that I left the Department of Defense.

There were intelligence photos that indicated there were certain caves, but—

Chairman KERRY. How many did you have hard intelligence on?

Mr. LAIRD. It was my understanding that the highest number that I can recall confirmed in 1972 was five. And I think at the time that I left the intelligence information indicated in the neighborhood of approximately 20. Now, that's about the best estimate that I can recall.

Senator GRASSLEY. But you do not put that in the category of—using your words—hard information that there were POWs left there?

Mr. LAIRD. I think we had confirmed by letter in Laos—I think five.

Senator GRASSLEY. Well, then, even if it is the five, do you feel that there is a correlation between the lack of intelligence operation at that time and the sophistication and quantity of the information and our inability to have—

Mr. LAIRD. I was not satisfied with the intelligence in Laos, if that's the question.

Senator GRASSLEY. That is the question.

Mr. LAIRD. The answer is I was not satisfied.

Senator GRASSLEY. How early did you advise the Nixon administration that you believed definite intelligence information on the POWs was essential to the Paris Peace Accords and their negotiations?

Mr. LAIRD. On a regular basis and right up until the time the accords were signed. I think I was sending memos and probably—

Senator GRASSLEY. Who would you say were the type or the—

Mr. LAIRD. I think I sent a memo directly to the President even in November 1972.

Senator GRASSLEY. So you told the highest levels of our Government that this intelligence information was very essential?

Mr. LAIRD. I wanted it spelled out in the accords that we had the right to search all crash sites, I wanted certain guarantees so that the people that I was responsible for were accounted for. I felt that although many occurred not during my watch, I still felt a responsibility as a Member of Congress even in those early years. And when I became Secretary of Defense, I had a responsibility I could not share with anyone.

Senator GRASSLEY. Who, in our Government, would have concurred with your views on that point of view as far as the essentiality of good intelligence information for the Paris Peace Accords?

Mr. LAIRD. I think many people concurred with my views. Certainly, I was supported always by—

Senator GRASSLEY. Well, could you just give us one or two names?

Mr. LAIRD. I was always supported by the service secretaries, I was supported by my deputies. I had two very fine deputies—one, David Packard, for almost 3½ years, and another, Ken Rush.

Senator GRASSLEY. Who might have been on the opposite side of that issue, not agreeing with you?

Mr. LAIRD. I do not know of anybody that would have been on the opposite side. Now, when you get in at the negotiating table, I think it's a different matter. You can take a strong firm position—firm positions that I was taking. I was not at the negotiating table, so sometimes it's a little difficult.

Senator you know how it is when we go to conference between the House and Senate. I've had a lot of difficulties from time to time with—back even with Senator Russell when we would negotiate on Department of Defense or HEW appropriations legislation. Sometimes you'd win if you were a son of a gun. But sometimes you lose, too.

Senator GRASSLEY. Well, the only difference in this particular instance is that we are talking about human life.

Mr. LAIRD. Well, we were talking about human life then, too. We were talking about such things as AIDS or Cancer, we were talking about syphilis, we were talking about gonorrhea, we were talking about human life in the HEW appropriation bill. I was the Ranking Member of that HEW & Labor Committee with John Fogarty. That was human life, too.

Senator GRASSLEY. Well, this is an instance where we said this is our Nation's highest priority and we tell everybody in the military ye shall not be forsaken or forgotten.

Mr. Chairman, I am done.

Chairman KERRY. Senator Daschle.

Senator DASCHLE. Thank you, Mr. Chairman. I want to really pick up where Senator Grassley left off. You had mentioned to Senator Kassebaum that you felt there were differences with Mr. Kissinger with regard to POWs. Was this one area of difference, that is, the degree to which intelligence data specifically relating to POWs would be utilized and become the center for negotiation during the Paris Peace Accords?

Mr. LAIRD. I believe that Secretary Kissinger had—or National Security Advisor Kissinger at that time—had this intelligence information available to him.

Senator DASCHLE. That was not what I asked. I want to get into that question, but you obviously were a very key member within the Nixon administration. He was a very key member. You had to have known what your position was and what his position was. Was it in complete concert?

Mr. LAIRD. Oh, we had disagreements from time to time, but that did not diminish my respect and admiration for Dr. Kissinger.

Senator DASCHLE. Well, I am not asking that. Good friends can disagree.

Mr. LAIRD. I mean, I've already outlined one here today as far as the "secret bombing" in Cambodia. I was for the bombing, but I wasn't for keeping it secret. There were other differences, from time to time. But he was occupying an entirely different role than the role I played as Secretary of Defense.

Senator DASCHLE. But in your role as Secretary of Defense, you advised the Administration that they use the hard data, the intelligence data that you were collecting as a basis for negotiation in Paris. As I recall, you have already told the committee in deposition and certainly at the hearing that that was really one of your most significant recommendations. If that is correct, were you not surprised that it was not until October 30, 1972, that Mr. Kissinger asked the Washington Special Actions Group directly for prisoner of war information?

Mr. LAIRD. I doubt if that was the first time he asked for information on POWs. I'm not aware of that, if that's the case.

Senator DASCHLE. You would be surprised?

Mr. LAIRD. I would be surprised, because I had talked with Dr. Kissinger back in 1969 when I was trying to change the policy of our Government to go public on POWs and MIAs, and I think it was probably Dr. Kissinger that suggested that I talk to Ambassador Harriman about it.

Senator DASCHLE. Well, we will have an opportunity to ask Dr. Kissinger tomorrow.

Mr. LAIRD. I really don't believe that was the first time he asked for any information on POWs and MIAs. I think that would be unfair to Dr. Kissinger.

Senator DASCHLE. We will have a chance to ask him tomorrow, but that is what our records indicate, that that was the very first time that he asked specifically for information of the WSAG.

Mr. LAIRD. Well, maybe that's the first time he asked the Washington Special Action Group, but I can assure you that he was interested in the POWs and MIAs a long time before that date.

Senator DASCHLE. You had given your assessment of the numbers of POWs in Laos. Do you have an equal recollection of your assessment of the numbers in Cambodia and Vietnam?

Mr. LAIRD. As far as the numbers?

Senator DASCHLE. You said in 1972 there were 20.

Mr. LAIRD. You have my memoranda which we gave certain estimates of on January 1969. You also had the figures for January 1972 in Laos and South Vietnam, and in—and in—North Vietnam. I think the figure is in 1972 we had confirmed approximately 380 to 390—I can't give you the exact figure.

Senator DASCHLE. 380, that was in Cambodia?

Mr. LAIRD. No, that was in North Vietnam. And we had—on January 2, I believe we had confirmed in South Vietnam approximately 90. And I outlined to you earlier that as far as Laos was concerned at that date, we had about five. Those were upgraded in the next year, but they were in that approximate number as I recall.

My memorandum and my information is in the hands of the committee because I was shown this by the committee last Wednesday.

Senator DASCHLE. You used the word in responding to Senator Smith about the statement of the President that in March 1973 that all American POWs are on their way home. You called that a positive statement. That is a fairly euphemistic characterization, would you not say?

Mr. LAIRD. I could not have been that positive. I was not there on that date.

Senator DASCHLE. Well, you have just given us the numbers, Secretary Laird, with regard to what you knew to exist within 6 months of that statement in Laos, in North Vietnam, in South Vietnam, Cambodia. Was there any effort, to your knowledge, either inside or outside the Administration to clarify that so-called positive statement? I mean, that really became fact. That became the law of the land, if you will. When the President makes a statement as definitive as that, as authoritative as that, given the credibility that any President has to make that statement, because the fact. Was there effort to clarify or to—

Mr. LAIRD. I had not seen the intelligence reports in February and March. But I had seen them prior to that time.

Senator DASCHLE. But did you not have access to regular classified briefings, as all Secretaries of Defense do?

Mr. LAIRD. You're asking me at the time that I had left.

Senator DASCHLE. Right.

Mr. LAIRD. I was not Secretary of Defense at that time.

I'll tell you, at that time, as a little earlier I outlined, I was a civilian. And I was trying to be a civilian and trying to enjoy a few things after 4 pretty tough years in the Defense Department. But I was not there for those intelligence briefings. I don't know the source of that positive statement. I think it's hard to make a positive statement like that, and I would never recommend it. Even though I had not seen any intelligence briefings during February and March.

Senator DASCHLE. Well, it seems to me that your characterization is understandable, but in fact, it was an untrue statement. It was a

misleading statement, and it caused a tremendous amount of harm to the whole process in the wake of that statement. And you have come before this committee with pride and with a great deal of credibility, given your record as Secretary of Defense on this issue.

What really surprises me—and I know I am out of time—what surprises me is that you, and others like you, with your credibility, and certainly your record and interest in this issue, did not follow up and say look, Mr. President, we have got to clarify that whether you are in or out of the Government. Because you, obviously, were one of those people who could have had the access to the President to do so.

But we will leave that for an additional round.

Mr. LAIRD. Well, I would hope that the Secretary of Defense did that.

Chairman KERRY. Senator Robb.

Senator Robb is not here right now.

Senator Reid.

Senator REID. Thank you, Mr. Chairman.

Mr. Laird, how long did you serve in Congress?

Mr. LAIRD. I was elected to Congress for nine terms. I did not complete my ninth term. I resigned to become Secretary of Defense.

Senator REID. And then you were Secretary of Defense for 4 years, approximately?

Mr. LAIRD. For 4 years. I had to stay a few extra days because I didn't have a deputy and the Senate had not confirmed a replacement. There was some tie-up on Secretary Elliot Richardson's confirmation, and I stayed perhaps for a few extra days. But it was my intention to leave on January 20.

Senator REID. What changes and recommendations did you make generally in order to enhance the Department of Defense overall intelligence gathering abilities on this issue dealing with POW/MIA's?

Mr. LAIRD. I set up regular meetings on this issue with the director of Defense Intelligence, with each of the service secretaries, each of the service chiefs, with the Director of the National Security Agency. I met regularly with the CIA and had a program going to develop and improve the intelligence in this area.

I took all of the presidential appointees in the Department of Defense on a weekend conference in which we outlined the things that had to be done to improve not only our intelligence gathering activities in this area but the emphasis on how important information was on POWs and MIAs.

Senator REID. Why did you do this?

Mr. LAIRD. Because I felt that the North Vietnamese were abusing our prisoners of war and weren't abiding by the Geneva Conventions as far as POWs and MIAs were concerned. I had that feeling in the Congress, and I carried it over to the Department of Defense.

Senator REID. Do you feel that your—

Mr. LAIRD. And I want you to know, and I hope you have POW witnesses that are back now, they will tell you that as a result of that activity, as the result of the Son Tay raid, as a result of our going public, that their treatment did improve.

Senator REID. Mr. Laird, how successful were your endeavors to change the intelligence gathering priorities with our Government?

Mr. LAIRD. I think they were fairly successful. First, I thought it was important to change the director of DIA, which I did. And having been on that Defense Appropriations for a long time, I felt it was very important that I have a man in charge of the DIA that reported to me directly and that he understood that he was my appointee.

I did the same thing with the National Security Agency and had regular meetings with them on the National Security Agency, a set meeting on Mondays and Fridays. But I spent a lot of time in that effort.

Senator REID. Other than organizationally, and you have told me generally what you did there, did we change any of our assets on the ground? Did we do anything different in theater?

Mr. LAIRD. Yes, I think you have some of the cables that I sent to various individuals on steps to improve the intelligence gathering activities, not only in Laos but also in Cambodia. We had good human intelligence in South Vietnam and we had pretty good human intelligence in the North. And we had good sigint intelligence in the North and the South.

We were a little weak on our human intelligence as far as Cambodia and Laos were concerned.

Senator REID. Did you feel, after having worked on improving the intelligence gathering, that you personally were better informed than you were when you started?

Mr. LAIRD. I felt that I was better informed as Secretary of Defense than I was as a member of the Defense Appropriations Committee because I had these people that I had appointed, and I told them if you do an excellent job in this area you'll be wearing four stars when you leave. And no one had ever worn four stars after they left Defense Intelligence Agency or the NSA. And I want you to know that both of those individuals in December before I left I assured them that they'd have their fourth star. One went out to become CINCPAC and the other took over the head of our forces in Korea. They were given their fourth star because they did to a good job as far as our country, the Department of Defense, and as far as the Secretary of Defense was concerned.

Senator REID. Mr. Laird, did there come a time when you felt you knew where the prisoners were and how many there were?

Mr. LAIRD. We had estimates of how many there were. We had an estimate of how many there were at Son Tay. We had estimates of how many there were at the Hanoi Hilton, which was a very big POW holding area. Son Tay, we had a pretty good estimate. I have outlined to your committee how that information was given to us and why we chose Son Tay. And you have that information that came through a rather unusual source.

I'm not sure. If your committee staff could let me know if I can tell about that or not. I'm not sure what the clearance is.

Chairman KERRY. Mr. Secretary, the evasion and escape parts of that would be classified.

Mr. LAIRD. You have the information, though.

Senator REID. We do.

Chairman KERRY. We are hoping, obviously, that significant portions of it will be declassified. But for the moment it is classified.

Senator REID. I have no further questions.

Mr. LAIRD. There is no reason, really, to keep that classified in the long run, because I think you'll find that various stories have been written about it. There are two books that have been written about it. But I don't want to be the one that breaks classification, because I don't have authority to do it now. As a civilian, as a retired Congressman, I can't do that.

Senator REID. We are trying to get it released, and we are doing the best we can.

Chairman KERRY. I think that will be out, Mr. Secretary. Senator Brown.

Senator BROWN. Thank you, Mr. Chairman. Mr. Secretary, we appreciate your presence here and your cooperation. Looking back all those years, does anything occur to you that we could have done, faced with the circumstance where the North Vietnamese were not willing to return more prisoners where we believed that there were additional ones there, with Congress having acted to cut off funds?

What kind of options did the United States have at that point?

Mr. LAIRD. Well I think after the Congress took away the authority from the President and the Executive Branch to conduct any type of military operations and to exert any military pressure in the area, the only means that was available was the diplomatic route, bring the force of public opinion around the world to bear on the North Vietnamese for not following the Geneva Conventions.

Because the congressional amendment, which perhaps you would make a part of the record here, enacted by the Congress was a very firm prohibition of any military-type action.

Senator BROWN. When you say the amendment, the amendment that Congress had added to appropriations restricting.

Mr. LAIRD. That is correct. But that was after I left. I did not have that kind of restriction while I was Secretary of Defense. But after I left in January 1973, such action was taken by the Congress.

Senator BROWN. Just to speculate for a moment, and I appreciate at best it is speculation, what do you think would have happened if the Administration had gone public with the discrepancy? Would the North Vietnamese have held up release of the prisoners that they did have?

Mr. LAIRD. I can only speculate. I do not believe they would have, but that is purely speculation. I was not there at the final negotiating sessions. You have my memorandum, I think, of November 10, 1972, in which I thought—maybe it was the 12th, but in that general area—of the things I thought were absolutely essential in the agreement. And, of course, many of those things were not in the agreement.

But I was not present at the final negotiation sessions, so I am not your best witness in that area. But I do not believe they would have withheld our prisoners of war.

Senator BROWN. Just speaking for myself, as I look at it with hindsight, which may not be a fair way to look at, but it strikes me that the right thing to do would have been to have gone public, at

least when we had had—as a minimum, when we had gotten our prisoners home. Any comment on that?

Mr. LAIRD. Well, I feel that it's always a good idea to go public on items like that. I was criticized for going public about the inadequacy of Senator Kennedy's list and the inadequacy of Cora Weiss' list. I wasn't being critical of Senator Kennedy or of Cora Weiss at the time I went public against their lists, but I felt it was important to call to the attention of the American people that they were not complete lists.

Senator BROWN. Thank you. No further questions.

Chairman KERRY. Thank you very much. Let me just say with respect to those lists that the Kennedy list had some 368 names on it. Twenty-six POWs who were listed, who were carried by the services as POWs were not on that list. Secretary Laird went public so stating, and held a press conference and pointed out that there were 14 cases where we knew that they had been captured, but the Vietnamese had not acknowledged it on the list they gave to Senator Kennedy, correct?

Senator BROWN. That is correct.

Chairman KERRY. What obviously confounds the committee a little bit is that the North Vietnamese did not provide any accounting for these 14 individuals during Operation Homecoming.

Mr. LAIRD. You're talking about 14 of the 26, right?

Chairman KERRY. Correct. Now therefore, Mr. Secretary, what I am saying is that you had a press conference at which you pointed out the inconsistency of the North Vietnamese list and pointed to 14 names and said these people are prisoners, correct?

Mr. LAIRD. That is correct.

Chairman KERRY. But those 14 did not come home at Operation Homecoming.

Mr. LAIRD. They did not come home. And some of those—

Chairman KERRY. Why did we not stand up and hold a press conference asking, then, why they did not come home? And may I say that today, three of them—

Mr. LAIRD. I think it is a good idea to go public on items like that.

Chairman KERRY. Well, Mr. Secretary, let me just finish. Today, 3 of them have still not been accounted for, 11 of them have been returned as remains.

Mr. LAIRD. That is correct.

Chairman KERRY. So the glaring question—I mean if you are going to sit here. You know, a lot of people have written articles over the last 20 years saying is this issue real, what is the hue and cry about. I mean here we have an example where you, yourself, and our Government said 14 people are not on this list, they are prisoners. But when they did not come home at Homecoming, we no longer said where are they, they are prisoners, what happened. And that is the birth of this issue.

Mr. LAIRD. That is correct.

Chairman KERRY. What do you say to people? I mean what happened, what is the explanation?

Mr. LAIRD. I would hope that you would ask the people that were responsible at that particular time.

Chairman KERRY. Let me ask you this.

Mr. LAIRD. Those particular names were confirmed, and I would certainly—

Chairman KERRY. Well who has the answer to that? You say we should ask the—who has the answer?

Mr. LAIRD. Of why they did not go public.

Chairman KERRY. Yes, of what decision was made. Who would have made that decision?

Mr. LAIRD. I imagine it was made by the Secretary of Defense. I would have made the decision if I had been Secretary of Defense.

Chairman KERRY. Well I have no doubt you would have. I am convinced you would have.

Mr. LAIRD. I have no problem doing that. I wouldn't have asked anybody; I'd have done it.

Chairman KERRY. Mr. Secretary, there is no doubt in my mind, given your prior record to that, that you would have. But let me just say to you: question, whether or not this problem wasn't confounded by the fact that in January you left as Secretary of Defense? This is Secretary of Defense, 1973. In February you had Clements, Bill Clements, as a deputy secretary, Richardson as a designee.

You had March, Richardson; April, Richardson. In May you had Clements again acting. In June you had Clements acting, and in July you had Schlesinger. It does not sound to me like there was a consistency of advocacy there, or awareness.

Mr. LAIRD. I understand that you're going to have them as witnesses, and I would suggest that you direct your questions to them.

Chairman KERRY. That is correct, and I do not want to belabor with you in fairness to you. But let me just ask you a few very specific questions leading up to this. You advised, did you not, that specific language ought to be included in the agreement with respect to the POW return process, did you not?

Mr. LAIRD. I did.

Chairman KERRY. And according to our records, it was only in November 1972 that the peace process requested documents from Defense on the POW position.

Mr. LAIRD. That's hard for me to believe, that that was the first time that—

Chairman KERRY. Well do you have any recollection of preparing any other papers prior to that?

Mr. LAIRD. Well I remember discussing this matter with Secretary—then the National Security Director, Dr. Kissinger, on many occasions.

Chairman KERRY. But you did prepare two papers, correct, for the negotiating team on the POW issue?

Mr. LAIRD. At least two. I cannot tell you exactly how many papers I prepared.

Chairman KERRY. But you were shown two in the course of deposition.

Mr. LAIRD. I was shown two the other day, to refresh my memory of papers that I had prepared for the negotiating team.

Chairman KERRY. Now when did you, as Secretary of Defense, first know that the U.S. Government position for exchange of lists was to occur on the day of signing?

Mr. LAIRD. I would have a—I have to give you an estimate on that. I think that I was notified that our negotiating team had agreed to that perhaps in the summer of 1972.

Chairman KERRY. Well when did you first learn it yourself? I do not want to know when they agreed. When did you learn?

Mr. LAIRD. I believe it probably was in the summer or early fall of 1972.

Chairman KERRY. Was it not right about the time of signing in January? Was it not some time around then?

Mr. LAIRD. No, I don't think—I think that that agreement had occurred earlier than that, because I think you'll find that agreement occurred in the summer or in September. I can't give you the exact date. I was not pleased with that agreement, as you know, because my original position was that we should have at least 6 months.

Chairman KERRY. I realize that. In your deposition, however, you said that you were informed about 2 weeks before that, that it had been negotiated, before the signing. I do not think it was done on the last day, you said. I think I was informed probably about 2 weeks before, that that had been negotiated.

Mr. LAIRD. It was before—I thought it was in the fall or—I think the agreement was made a little earlier than that, but it perhaps—

Chairman KERRY. At any rate, you felt very strongly, did you not, that it was vital to the accounting process to have those lists exchanged prior to signing.

Mr. LAIRD. Yes. Did I have that in my November 10, memorandum? I think—

Chairman KERRY. Yes, you did. I believe you argued with Dr. Kissinger and others, and you were constantly reassured that you would get that and that you should not worry about it.

Mr. LAIRD. Well I think the 6 month period was dropped in the summer. Now I think you're talking about two different things. There was one discussion that we'd get the list a week before, and then there was a discussion we'd get it a day before. But the original request that I was trying to work on was 6 months, and I think I was told that the 6 months feature had gone out the door some time in the summer or early fall.

Now, you see, there were different negotiating positions. I think your staff, if they'll check—you'll find that at one time we had a 6 month period, then we had a 2 week period and then we had a 1 day period before the—

Chairman KERRY. The 6 month period, Mr. Secretary, was the time period for the withdrawal originally. That is different from—

Mr. LAIRD. And we would have gotten our notice—

Chairman KERRY. That is different from the advance lists.

Mr. LAIRD. Right.

Chairman KERRY. I am not trying to hold you to the dates for the lists; that is not what is critical here. What I am trying to get at is, and I think Senator Kerrey was trying to get at it earlier, is this issue of the secrecy of who knew what. Of what the play was here and whether or not, as a consequence of that, people like yourself who were advancing certain notions of what ought to be considered

in fact did not find those notions, perhaps, as factored in as they might have been.

Mr. LAIRD. I understand.

Chairman KERRY. There may be very good reasons that they were not, and I am not trying to draw a conclusion here. I am trying to understand the path.

Mr. LAIRD. I understand that, and I know what you're getting at. I just don't want to raise any questions that Dr. Kissinger did not keep me informed.

Chairman KERRY. I am not suggesting—well the fact is—

Mr. LAIRD. Because he did keep me informed, and I had other sources of verifying what was going on in the secret negotiations in Paris.

Chairman KERRY. Well I know Dr. Kissinger will agree with this. I mean the fact is that, if you read his own memoirs and other materials, very few people knew what was going on in the secret talks. I mean that is just a reality. That was a small loop, was it not?

Mr. LAIRD. A small loop, but I had other sources too. I think your committee staff understands what those sources were.

Chairman KERRY. The episode with the Kennedy list and the French experience that you had referred to and your personal conversations with the President and with Dr. Kissinger saw you arguing, I think, fairly strongly, were you not, that you really needed a process for accountability, that you could not take their word on a list? Is that accurate?

Mr. LAIRD. That is correct, because they had already violated the Geneva Accords for a long, long period of time.

Chairman KERRY. A final question. This issue of statutory authority for status classification from POW to MIA/KIA and so forth, that resides in the service secretaries, does it not?

Mr. LAIRD. It does, and it should reside there.

Chairman KERRY. At any time in your 4 years, did you assume that responsibility of making that classification?

Mr. LAIRD. I did not.

Chairman KERRY. And throughout your term, you left that to the service secretaries, did you not?

Mr. LAIRD. I did.

Chairman KERRY. For a Secretary of Defense to become involved, and particularly for an acting secretary to become involved in making status changes, would that not reflect some kind of input or decision at the highest level?

Mr. LAIRD. I would think it would reflect a lack of confidence in the service secretaries.

Chairman KERRY. Was there a reason that by 1973, right after the signing of the accords, there would have been a lack of confidence in the service secretaries for making that determination?

Mr. LAIRD. I cannot tell you that. I know I had absolutely outstanding service secretaries. I would like to go over all their names, but you don't have time.

Chairman KERRY. Well you saw no reason when you left in January 1973 to change their authority, did you?

Mr. LAIRD. I did not.

Chairman KERRY. And you did not do that as you left in January.

Mr. LAIRD. I did not.

Chairman KERRY. And those same service secretaries were still there after you left, were they not?

Mr. LAIRD. Well they were removed rather rapidly.

Chairman KERRY. At what point in time?

Mr. LAIRD. I cannot give you the exact dates, but there were new secretaries appointed almost immediately after I left, for the various services.

Chairman KERRY. Were you aware that as of June 1973, status changes to POW, prisoner of war, had to be approved by Deputy Secretary of Defense Clements personally?

Mr. LAIRD. No, I was not aware of that until I was informed by your committee.

Chairman KERRY. Do you know that 50 to 75 cases were presented to him for prisoner of war classification and none passed his standard?

Mr. LAIRD. I was informed of that by your committee.

Chairman KERRY. Do you know whether or not the Defense Department had established standards for how somebody would be classified as a prisoner of war?

Mr. LAIRD. I have no personal knowledge of that, as far as the Department of Defense.

Chairman KERRY. Does it not strike you as somewhat extraordinary that after the signing of the accords and during the process of implementation, 50 to 75 cases would be presented to the Secretary of Defense for classification as prisoner of war?

Mr. LAIRD. Quite frankly, I would be opposed to taking that authority away from the services, because the manpower requirement should be in the hands of the service secretaries.

Chairman KERRY. Well I respect that, but what about my question. Does it strike you as extraordinary that 50 to 75 cases would have been presented during that time period and none were classified?

Mr. LAIRD. Rather unusual. I'm not trying to hedge on your question, Senator, but I do think it's a little unusual.

Vice Chairman SMITH. Mr. Secretary, let me just back up on one point that you were responding to on Senator Kerrey's series of questions regarding the lists. I realize you do not have the benefit of these documents and it was 20 years ago, and I am not trying to—

Mr. LAIRD. I think I'm doing pretty good, don't you think.

Vice Chairman SMITH. Yes, you are doing very well.

[Laughter.]

Vice Chairman SMITH. I am trying to get at—I am not trying to press you on documents that you do not have in front of you, but I am trying to get a picture as to why we went from your original recommendation of having a list reviewed in advance, 6 months or so I think was the term you used, and we moved, evolved from that to not having any lists, essentially; just getting the accords signed and let the lists come.

Mr. LAIRD. The day after.

Vice Chairman SMITH. The day after. And, of course, you have referenced, and I hope that those listening understand what we mean by the French experience which, of course, in a nutshell was that the Vietnamese were not totally forthcoming, to say the least, in information regarding prisoners after Dien Bien Phu.

But on the November 10, you sent a memorandum—and I am not sure just when the final touches were put on this agreement before Kissinger went to Paris and signed it; you may know, I do not know the exact dates of those. But on November 10, you signed a memo for the Assistant to the President for National Security Affairs in which you said attached are those additional elements of an agreement on cease-fire in Vietnam which I consider essential.

And one of those points that you say regarding—there were a number of things in there, but regarding lists you say: Lists will be provided at the time that the cease-fire commences by each party to all others, and to the four party joint military committee.

If you felt otherwise, and I assume you did based on your testimony, why did you accede to that at that point? Was the handwriting on the wall? Were you told to do that?

Mr. LAIRD. I had been told that that had been agreed to, and I think my statement with the committee will tell you that at that time I thought that that had been agreed to. There were several other items which are in that memorandum that had not been agreed to.

Vice Chairman SMITH. I am sorry, that what?

Mr. LAIRD. That had not been included and not been agreed to.

Vice Chairman SMITH. Right. Were you upset about that memorandum? Were you upset that your advice was ignored?

Mr. LAIRD. Well, you're always not pleased when your advice is not followed, but as long as you're given a fair shot at getting your advice across, I think that's very important.

Vice Chairman SMITH. I suppose there are only two people that could overrule you. Maybe only one, I guess. The President of the United States for sure. I am not sure about the National Security Advisor in terms of the line here. But there really is not anybody else in the loop that could overrule you, is there?

Mr. LAIRD. I would not let the National Security Advisor to the President overrule me without going to the President.

Vice Chairman SMITH. Did you go to the President?

Mr. LAIRD. Yes. I think you'll find a memorandum that went to the President.

Vice Chairman SMITH. In your testimony, earlier you said that your expectations were or the Government's expectations were that there were clearly more POWs expected out of Laos than we got back. And then based on the egress recap planning operation, which was very elaborate both in Vietnam and Laos, you agree, then, that that is essentially accurate, do you not? That we just—our expectations were a lot higher than we got on the list?

Mr. LAIRD. My expectations were higher, and I was disappointed because I felt that for all of these families, I had gotten to know them all, I was in close association with them, I helped organize the association of families, I set up the scholarship fund and got Kevin Murphy to go to each of the States and set up scholarships

for their children for college education. They did a great job in that area. So I had become involved.

Some people thought perhaps, in the Administration, that I had become too much involved. I felt somebody had to be involved, and it was my responsibility as Secretary of Defense.

Vice Chairman SMITH. If I could offer an editorial comment, I frankly wish that you had stayed on a little bit longer in your role.

Mr. LAIRD. I would have, but I told Secretary McNamara that he stayed too long, and he came across the witness table at me one time. George Mahon, the chairman of our committee had to quiet him down a little bit. I felt that day that you can stay too long in a job. And I think Secretary McNamara will tell you today that perhaps he stayed too long, too.

Vice Chairman SMITH. Well, let me put you on the spot a little bit. You were not there. You left in January. But you were an advisor to the President. I am not sure just when you came on board. When did you come on board as an advisor to the President?

Mr. LAIRD. As counselor?

Vice Chairman SMITH. Yes.

Mr. LAIRD. It was shortly after Ehrlichman and Haldeman left, a group from the Senate and the House, both Republican and Democratic—

Vice Chairman SMITH. March? February?

Mr. LAIRD. No, it was probably in May, but I did not take office, really, until June 1. A group from the Senate, including Senator Mansfield, Hugh Scott, and the various leadership of the House prevailed upon Bryce Harlow and me to come back to the White House and serve in various capacities, and we agreed to do it.

Vice Chairman SMITH. Well, without commenting on anybody else's veracity or integrity, let me see if you could just respond as straightforward as you can. If you were there, if you were there during the period of time in question when the accords unfolded and the prisoners began to come back—we are talking now February, March, April, May, June—and a request came to you—well, let us consider what happened here. Let us assume that you were there, which you were not, but let us assume that you were and somebody indicated to you we ought to take away the opportunity to classify POWs from MIA categories to POW categories. Take that away from the service folks and Secretaries and give it to the Secretary of Defense directly or that we ought to ignore volumes of intelligence that we had, all of those things, would you have agreed to that?

Mr. LAIRD. I don't think so, Senator. I tried to advocate all the time I was Secretary of Defense the whole idea of participatory management and tried to bring the service sectors, the service chiefs, and keep all of the services very much involved, and I don't think I would have moved in that direction.

Vice Chairman SMITH. One final point—my time is just about up—would it not have been, and this is, again, opinion, of course, for you to say, would it not have been more direct, more honest if you will, to the American people if the President or the Secretary of Defense or whoever, or Mr. Shields or whoever were making these statements to say something along this line:

We have an agreement with the North Vietnamese. We have an agreement. We have signed that in Paris. Our lists do not match too well, but we think we can pursue them based on the testimony, based on the hope that we can continue to negotiate with them, but we do not have an agreement in Laos. We are not a party to any agreement in Laos. They are not a signature. Would it not have been more honest to say to the American people, based on our intelligence we believe there are people in Laos, and that's a sidebar issue as far as these agreements are concerned.

Now, we can do one of two things. We can go ahead and sign those agreements, work this out through the Vietnamese, and get whatever we can get and hope that the Vietnamese will influence the Lao to come to the table, which they indicated they could originally and then said—backed off on that and said they could not. That's one option.

The second option is to simply say we are going to have to have another agreement with Laos. We do not have it, and for all you families out there who are waiting for loved ones from Laos, we are going to have to have another agreement. There is something in the works here. It is a separate agreement between the Royal Lao and the Pathet Lao. That is going to be—that is—that was signed in February, it is not been implemented. And when it is implemented we will begin to work on the prisoner list.

Would that not have been a more honest, direct approach. It may not have worked, but is that not more honest?

Mr. LAIRD. I would think so.

Vice Chairman SMITH. Do you regret that did not happen?

Mr. LAIRD. Well, I was not privy to the information that was available at that time.

Vice Chairman SMITH. I understand.

Mr. LAIRD. And you are going to have witnesses that are going to come before you. I would just like to say that Roger Shields was brought into the Pentagon by me and worked in this area. I had great confidence and respect for him. And if there was some reason that he changed his position during that time, as was indicated by questions from your staff, I did not have any knowledge of it.

I know that he is a very honest, capable, competent person. I think that those are the sort of questions that have to be directed to Secretary Clements and to Roger.

Vice Chairman SMITH. I understand that, and we will do that.

Thank you, Mr. Secretary.

Chairman KERRY. Senator Kerrey.

Senator KERREY. Mr. Secretary, again following the line that I was talking to you in the first round about the impact of the desire to maintain secrecy, you have made reference on a number of occasions as well, today and in the documents, that you were arguing with Dr. Kissinger that we should get a list prior to the signing of the agreement itself, is that correct?

Mr. LAIRD. That was the position that we took, that it would be advantageous to us to be able to check that over early.

Senator KERREY. And the reason is, again, that you wanted to check the list over early. Why would you want to check the list over early? Why was it important?

Mr. LAIRD. To make sure that we had a complete list and to call to the attention of the North Vietnamese that we had questions about the list, just as I did on those other lists early on. I tried to question those lists as soon as they were released, and as your chairman has pointed out, I found at least 26 names that were not included, and I released the pictures of the individuals that were not included. And I think it would have been to our advantage to go forward and do the same thing if we had discrepancies, immediately. I think it's always better to keep the public informed on issues like that.

Senator KERREY. Well, Mr. Secretary, my understanding in that regard, and I am just asking, if you were a Member of Congress representing—let us say the State of Wisconsin in 1971 when the Administration came before the Senate Armed Services Committee and said that there was no bombing in Cambodia throughout all of 1969—

Mr. LAIRD. I never said that.

Senator KERREY. No, no. I am—

Mr. LAIRD. As a matter of fact, I went to the senior people on each of my committees—

Senator KERREY. That was the Administration—

Mr. LAIRD [continuing]. Whether it was Republican or Democrat, Senate and House, and informed them as soon as the bombing started.

Senator KERREY. And they were asked to keep it a secret from their constituents as opposed to being able to talk about it.

Mr. LAIRD. They were told that it was classified information.

Senator KERREY. Well, my understanding is that we went so far as to actually send false reports through Pentagon channels, that the State Department—

Mr. LAIRD. That was never authorized by me.

Senator KERREY. That the State Department was not informed, that the Air Force Secretary did not know anything about the bombing—

Mr. LAIRD. No, that's not true. Let me—I love Bob Seamans. He's a great friend of mine and he was a great service secretary.

I informed his undersecretary, a man by the name of John McLucas of the bombing because the Secretary was not available at the time we started. I assumed that John McLucas would forward that information to the Secretary of the Air Force. He did not.

Take the Son Tay raid. I can go through—as far as my not informing service secretaries, I do not want that to stand on the record. I did inform them the day of the raid.

Senator KERREY. Well, it stands on the record because he did not know about it.

Mr. LAIRD. Well, he didn't know about it because his undersecretary failed to inform him.

Senator KERREY. Well, there were 3,875 B-52 sorties during that period of time, and it seems rather unusual that the Air Force Secretary did not know about it.

Mr. LAIRD. Very unusual when there were 10,000 involved in the Air Force. Very, very unusual.

Senator KERREY. Look, I do not want to focus a great deal of attention upon that except to argue that I believe that the desire to

keep things secret, and in fact the effort to keep things secret, had a material effect not only on our capacity to continue fighting the war and the American people's level of support for the war, but in addition to that had an impact on our ability to be able to negotiate a settlement that gave us some hope of being able to get a full accounting of the POWs.

You have indicated, Mr. Secretary—

Mr. LAIRD. I agree with you, Senator.

Senator KERREY [continuing]. You have indicated—

Mr. LAIRD. I'm not arguing with you on that point at all. I felt that it was a mistake to keep it secret, and I knew it could not last very long.

Chairman KERRY. Can I just ask if—

Mr. LAIRD. We could have gotten support from the Congress, both the House and the Senate at that time, with those sanctuaries that were existing in Cambodia. I was willing to go and support it publicly and go to the House and Senate, and I know that I could have gotten support.

Chairman KERRY. Could I just ask, so the record is clear in furtherance of Senator Kerrey's line of questioning, are you also agreeing that that overall secrecy had an impact on the ability to create the accountability climate and process for POW/MIA?

Mr. LAIRD. I think that contributed. I think it contributed to some of the unrest that took place on some of our college campuses at that time when it came as a shock that that Cambodian bombing had been carried on in secret. I knew that eventually you could not keep that a secret.

I want it understood, though, I was not against the bombing of the sanctuaries in Cambodia that were completely and totally occupied by the North Vietnamese. What I was against was the secrecy of the bombing.

And I want you to know, Senator, that I came up here and talked with Senator Stennis, I talked with—

Senator KERREY. Well, with respect, Mr. Secretary, all that means is the chairman knew and not other Members of the committee.

Mr. LAIRD. Well, that's up to them. But I talked to the Ranking Member on each side. I did not keep secrets from the people that I was depending upon up here in the Congress. I'd been here too long to do that.

Senator KERREY. Well, your relationship with the chairman and the Ranking Member, I perfectly understand. In fact, I appreciate your willingness to argue against the secrecy. I appreciate your willingness to try to inform, even though the policy of the Administration at the time was to maintain secrecy. I think you took the correct course of action. All I am trying to eventually get to is to connect that—

Mr. LAIRD. Well, I'm sorry, Senator, I didn't mean to interrupt. But I just want that understood.

Senator KERREY. When you were counselor to the President in 1973 and 1974, I understand you came on May and did not fully engage until June. The President had given a statement on March 29, 1973 where he talked a great deal about domestic items. In fact,

of interest to me was that was the day in which he announced that he was freezing the price of beef and pork and other items.

The President went on May 3, to deliver a statement about foreign policy where he talks at great length about Vietnam. He makes the following statements, Mr. Secretary, and I would appreciate knowing whether or not you, as somebody who had contact with him, ever discussed the statements that he made. He said our prisoners have returned to their homes and families. A full accounting for all those missing in action is stipulated. There is a ceasefire, though still imperfectly observed in Vietnam and Laos, and third, that the South Vietnamese people have the opportunity to determine their own political future.

My question, Mr. Secretary, is were you first of all aware that that was the President's representation to the American people, and second, did you engage the President in your role on that particular point? Did you say—if you were aware of it, did you engage him and say Mr. President, I have got serious doubts and reservations about whether or not all of our prisoners are at home?

Mr. LAIRD. I was not at the White House at that time. And I'd like to recall exactly where I was. I think I was traveling in Europe or else was in Florida at that time. I cannot give you exactly, but I could probably look it up. But I was not in Government at that time.

I think I was perhaps traveling with one of your colleagues in Europe. We were attending the change of command at the Sixth Fleet. I then went on into Germany to spend some time with Helmut Schmidt. Went to France to spend some time with some of my friends that I had served with as defense ministers and so forth. But I was not in the White House at that time.

Senator KERREY. Mr. Secretary, we—obviously, this panel, or perhaps not so obviously to you, but our panel has the obligation not only of trying to discover what went on in 1973 and around that time, but also to try to answer the question what can we do to assist General Vessey in getting a full accounting now. The chairman and ranking member have done great—

Mr. LAIRD. I want you to know that General Vessey is doing an excellent job. I have an opportunity to visit with him at least once a month about this matter. As you know, General Vessey, when I was Secretary of Defense, was sent to Laos. And he's got a lot of information about Laos, a lot more than a lot of other people in this Government, and I assume you have questioned him about his tour of duty in Laos while I was Secretary of Defense.

He wasn't too happy about my sending him up there, and neither was his wife. But he did a great job in Laos.

Senator KERREY. Well, what I was getting to, Mr. Secretary, is trying to discover if you have—and I have just been passed a note not urging me to buy Time Magazine, I assume, but telling me my time is up—do you have advice for this committee as to how we ought to proceed. We now have narrowed the numbers of people that are in discrepancy to approximately 130 to 135. Do you have advice to the committee as to how you think we ought to proceed to get that full accounting?

Mr. LAIRD. I think that public opinion is the best manner in which you can get a full accounting. I think that you're proceeding

along that line. I get a little disappointed with some of the stories that come out of here. There was one the other day about Tom Moorer, about how somehow or other he had failed to follow orders of the Secretary of Defense.

I have known Tom Moorer for a long, long time, and I know that he would not put out an order without having the approval of the Secretary of Defense. I met with him every morning and every afternoon while I was Secretary of Defense. I know that he does not operate that way. I hope that you can clarify that record when he appears here.

Chairman KERRY. Senator Grassley.

Senator GRASSLEY. Mr. Chairman, I am not going to have any questions. I sure appreciate Mr. Secretary Laird coming to our meeting and helping us with our job.

But I do have an observation that I want to pick up on, that Senator Daschle ended with. It was his point of departure, and that is with President Nixon making the statement about all of our POWs having come home. I want to point out just exactly what that statement did, what kind of substantial impact that statement had. And with that statement, the standard for proof or evidence is much greater.

And that is why everybody involved in this issue over the last 20 years, and that is why even this committee so much from the testimony table has heard the statement about there is no credible evidence. Whenever we ask the question of anybody who was involved at that particular time if we left men behind, our Government's response has always been there is no credible evidence.

And we have been able to show that that is just plain wrong. But it has been a stumbling block for the successful digging that people have tried to do in the past, and it has given everybody an out that we look back up on and conclude was a very—not only wrong for the people involved, but was very much a wrong statement. And it just shifted everything from people who thought they were there, having evidence on their side and the Government on their side—they were up against the Government.

Chairman KERRY. Thank you very much, Senator Grassley.

Let me just say that for all of us, we have been at this for a number of months now, 9 or 10 or so, and some a lot longer than that. There is a tendency at this point to begin to see things, and obviously the evidence is beginning to say things. I think we all have to be very careful not to be drawing too many conclusions at this point, though it is very hard not to draw some, and we all have, myself included. But I do think we need to hear everybody out and complete the task before we begin to make too many judgments.

Senator Daschle.

Senator DASCHLE. Thank you, Mr. Chairman. I want to take the reference Senator Grassley made to that statement and break it down to before and after. And in the before section, Secretary Laird, I would like to go back to your comments relating to the degree to which you and Dr. Kissinger were of the same mind during the negotiations about the relevance of POW information.

You said that you had adequate information with regard to what was being said at those negotiations; that you, from a lot of differ-

ent sources, could keep fairly close tabs on their progress. And you have also said that, to your knowledge, you and Dr. Kissinger were of the same mind with regard—

Mr. LAIRD. Well I think we had differences of opinion from time to time, but I want you to know that I don't think that Secretary Kissinger—Dr. Kissinger was withholding information from me, and that seemed to be the implication to some of the questions.

Senator DASCHLE. Well I certainly did not imply that. There is a difference between withholding information from you and taking the information you provide and utilizing it to the degree that it could have been utilized during the negotiations. And I would like to specifically ask you about definite information relating to numbers and names of POWs.

Did you advocate, during this period, that definite names and numbers ought to be used and raised as a point for negotiation during the Paris peace negotiations?

Mr. LAIRD. I always was after that. That's in accordance with the Geneva Conventions on prisoners of war and missing in action, and I think I have a couple of transcripts here in which I raised that as early as—publicly as early as 1969. I kept after that because they were a signatory to the Geneva Accords on prisoners of war and missing in action.

I kept at that religiously all during the time I was Secretary of Defense, and even raised it when I was a Member of Congress, as a member of the Defense Appropriations Committee. So that was nothing new as far as I was concerned. You have a copy of the Geneva Convention concerning prisoners of war and missing in action, and that is very clear in those documents what the responsibility was of the North Vietnamese. I never varied from that all during the time I was Secretary.

Senator DASCHLE. I think the record is clear, Secretary Laird, that that was your position. The question I am asking is to what degree—given your strong feelings about that information and about the need to raise it in the negotiations, what was your degree of satisfaction that it was being raised, given the fact that you have now indicated you had adequate information about what went on there? Compare what your expectations were to what was done.

Mr. LAIRD. To my knowledge, Dr. Kissinger did everything he could to support the Geneva Accords on prisoners of war and missing in action. I have no information that he did not believe in that and did not support it.

Senator DASCHLE. So during that time that you felt as strongly as you have indicated you felt, you have specific information that gives you that confidence, or is it wishful thinking?

Mr. LAIRD. No, he told me that he raised it regularly.

Senator DASCHLE. He raised it regularly.

Mr. LAIRD. That is correct.

Senator DASCHLE. He told you that, and you had other information.

Mr. LAIRD. I was even told by the prior negotiator in the secret meetings—discussions even prior to the time Dr. Kissinger went to the White House, that the Geneva Accords on POWs and MIAs were being raised secretly as an issue as far as our Government was concerned.

Senator DASCHLE. Well if these negotiations—

Mr. LAIRD. But it wasn't raised publicly until I started raising it publicly in 1969.

Senator DASCHLE. OK, you raised it publicly and I understand that. And you raised it with Dr. Kissinger, and you said that he assured you that he was raising it at the negotiations. And based upon what you told the committee, you had adequate information from other sources that it was being raised.

Mr. LAIRD. Was being raised.

Senator DASCHLE. Did the Department of Defense—

Mr. LAIRD. The Geneva Conventions on POWs and MIAs had been raised by our Government, and it was being raised by Dr. Kissinger.

Senator DASCHLE. And we are talking here about one and the same thing. Are we talking about definite numbers and definite names on POWs?

Mr. LAIRD. That's what the Geneva Accords on POWs—

Senator DASCHLE. No, no, that is not what I am asking you. Were you—did you have confidence that Dr. Kissinger and his team of negotiators were using specific names and numbers in the negotiation?

Mr. LAIRD. I'm sure they were asking for specific names and numbers. They had the various lists that the North Vietnamese had been putting out, which were incomplete.

Senator DASCHLE. When you say I am sure, that leads me to think that you did not know.

Mr. LAIRD. I would think it would lead you to believe just the opposite.

Senator DASCHLE. Well I would hope that you would have information to say I have documents that show they were using it, rather than to say I am sure. I would give the benefit of the doubt to my colleagues every chance I had.

Mr. LAIRD. I do too, and I give the benefit of the doubt to Dr. Kissinger. He told me—

Senator DASCHLE. So there is doubt.

Mr. LAIRD [continuing]. He was raising this question on a regular basis, and he was in support of the North Vietnamese following the accords that they had signed.

Senator DASCHLE. Well we will get into this a little bit more tomorrow.

The other half of the question that I wanted to raise, because I think we could pursue this for another half hour or half a day.

Mr. LAIRD. I'd like to have you re-read the POW/MIA convention.

Senator DASCHLE. Secretary Laird, that is not—

Mr. LAIRD [continuing]. Which was signed by the North Vietnamese.

Senator DASCHLE. That is not the issue. The issue is to what degree did Dr. Kissinger insist that we live up to the agreement and the expectations.

Mr. LAIRD. That they live up to the agreement.

Senator DASCHLE. Well that they and we did.

Mr. LAIRD. I'm sure that he insisted on that, and did what he could.

Senator DASCHLE. Well your characterization makes me doubtful. Mr. LAIRD. But he will be here tomorrow and he will assure you of that himself.

Senator DASCHLE. Well I hope we get more than just verbal assurance. I hope there is some documentation.

Mr. LAIRD. Well I would like to have the accord put in the record at this point, if it could.

Chairman KERRY. The accords are part of the record. The full—all of the records, the accord.

Mr. LAIRD. But I'm talking about the POW/MIA Geneva Convention.

Chairman KERRY. Oh, I am sorry. That will be made part of the record.

[The information referred is printed in the Appendix to the September 21, 1992 record, on page 194.]

Senator DASCHLE. My last question just is really seeking your observation. From my perception, and listening to the data and reading the documents, there was a sea change in attitude immediately following the President's assertion that everybody has now come home.

Even somebody with your credibility and dedication and determination, for whatever reason, even though you were in the White House and obviously assigned to a different responsibility, chose not to raise the issue, in spite of the fact that you did feel strongly about it and took the actions that you have so capably described this morning. But you did not raise the issue. No one raised the issue, apparently, inside the Government after the President made his assertion in March 1973.

And I guess I would just like you, if you could, to describe what it was, with all of those who felt as strongly as you did, that this was no longer a time within which to raise the issue and we are going to put it behind us. Describe the after, if you will.

Mr. LAIRD. I hope that you will pursue that with the people that were there.

Senator DASCHLE. You were there, so I would like to pursue it first with you.

Mr. LAIRD. No, I was not there. I was not there at the time of the speech you talk about and when the policy was adopted.

Senator DASCHLE. Well the statement was made in March; you were there in June.

Mr. LAIRD. I'm not trying to—I'm not trying to hedge on the question, because I don't hedge on questions.

Senator DASCHLE. Well do not hedge on this one, then.

Mr. LAIRD. But I was not there, Senator, and you know perfectly well I wasn't.

Senator DASCHLE. No, you were not there at the time the statement was made. All I am asking—and I do not mean it to be in any way an accusatory question. I just would like you to describe the atmosphere that apparently permeated the White House and the administration in June when you arrived, rearrived, about this issue? Why was it such that no one chose to challenge the President's statement and recharacterize it in a way that would be less positive, as you described it.

Mr. LAIRD. I cannot explain that, Senator. I believe that that's something you should pursue.

Senator DASCHLE. Well thank you. And thank you, Mr. Chairman.

Chairman KERRY. Thank you, Senator Daschle. Senator Reid.

Senator REID. Senator Daschle asked some questions about the numbers and the names of prisoners, and you indicated that you were interested in this a long time ago, even when you were a Member of Congress and then when you became Secretary of Defense.

Did we ever—and I asked this question in a different manner before, but I am interested in the answer. After having expressed your interest and done what you could as Secretary of Defense, did there ever come a time when we had what you would consider good information regarding the number of prisoners, their locations, and the condition of the prisoners?

Mr. LAIRD. In Laos, are you talking about?

Senator REID. Any of the three theaters.

Mr. LAIRD. I was never completely satisfied with the information we had in all theaters, but we did the best we could to get information. It was easier to get information in South Vietnam and in North Vietnam than it was in Laos or Cambodia.

Senator REID. Mr. Laird, you stated that intelligence was—

Mr. LAIRD. The British kept sending in intelligence information. You couldn't count on the British intelligence, because they weren't really involved too much there. The French intelligence was much better in that area of the world than was the British. The British kept putting out stories on sightings and things like that; we'd check them out, and we wouldn't find too much credibility with it. But the French were much better.

Senator REID. You have stated that the intelligence was relatively good in South Vietnam and not quite as good, but also OK in North Vietnam. Is that right?

Mr. LAIRD. Yes. Because we had the experience with human intelligence there. I think if you'll read over the directions which I sent to the ambassador in Cambodia and which I shared with the Ambassador in Laos, you'll find that I set out a program of improving the intelligence there. I think they tried, but I was never quite satisfied that they had done everything they possibly could.

Senator REID. We have already established, and you have talked briefly—

Mr. LAIRD. I think you have those messages.

Senator REID. You authorized a raid on Son Tay in North Vietnam in 1971.

Mr. LAIRD. That was in 1970, wasn't it?

Senator REID. Was it in 1970. I could be wrong on that.

Mr. LAIRD. I think that was November 1970, but you know, you see I have a little disadvantage here because I don't have the records here. But was not Son Tay November 1970? November 1970, I think. That was a very successful operation.

Senator REID. Regardless, the point that I am trying to establish is that you feel the raid was successful.

Mr. LAIRD. I do. And when I was called over here and criticized by my good friend, Senator Fulbright, I tried to explain to him that

we hadn't developed cameras that could see through roofs at that time. I was called up here almost immediately. I just want to say that General Majors and Bull Simon, Colonel Simon, and all those men did a terrific job.

I will never forget the job they did. I understand that you've had some testimony before the committee that we forgot about them; we did not.

Senator REID. Now when the raiders got to Son Tay, there were no prisoners of war there; they had been moved.

Mr. LAIRD. They had been moved. You see it took a long time for us to get the training for the raid done. I wanted General Majors and Colonel Simon to set the time that they would make the raid. There was only 1 or 2 days during a month period, because of the situation of the moon and the lightness up there near Hanoi, when they could be successful.

They practiced and practiced and practiced that raid. They took it down every day. Now they missed it, probably, by about 2 weeks; the prisoners had been moved. But it was up to them once I gave them the go, and I made it sure that no one could interfere with them and cancel once I gave them the go. They were all volunteers.

Senator REID. Mr. Laird, the point I am making, though, is our intelligence could not have been that good because there were not any prisoners when we got there.

Mr. LAIRD. Well our intelligence—and I explained to your staff where we got the intelligence about the presence of those prisoners. They know exactly where that information came from, and every prisoner of war that's back here in the United States knows where that information came from. They were all elated because they heard about it within 24 hours, that we'd made the raid.

Senator REID. So it is your feelings, your belief, that the raid was successful even though the prisoners were not there because of what it did for the other prisoners in the area.

Mr. LAIRD. It did to the morale of the families here in the United States and to the morale of those people that were being held in captivity in Southeast Asia.

Senator REID. You understand my point, though, from the intelligence aspect. And I appreciate that.

Mr. LAIRD. Let me tell you, when that raid was going on I sat there in my office. It was daylight here, darkness over there, and we had radio silence on the raid all during that time. I sat there with the chief of our intelligence, Richard Helms. He sat there in my office all during those hours as the men went in and as the men came out.

And one of the greatest messages I've ever received was when I got the word from Bull Simon that they were all out and no casualties. Now we knew that there was a possibility of movement, but you can never be absolutely sure because this intelligence that we were using was intelligence that came from a source that was very close to the POWs.

Chairman KERRY. Let me just say, so people can plan their day here a little bit, what we are going to do. This will be the last round of questions and we will break afterwards for lunch until about 1:30, and then begin with our next panel immediately at 1:30 and hopefully wrap up at a reasonable hour this afternoon.

Senator Brown.

Senator BROWN. Mr. Chairman, the staff has located the amendment that Secretary Laird had referred to earlier that cut off funding for activities in Vietnam, and I ask unanimous consent that it appear in the record following these remarks or at the appropriate place within his remarks.

Chairman KERRY. Without objection, so ordered.
[The information referred to follows:]

PUBLIC LAW 93-52—JULY 1, 1973

Public Law 93-52

JOINT RESOLUTION

July 1, 1973
[H. J. Res. 636]

Making continuing appropriations for the fiscal year 1974, and for other purposes.

Continuing
appropriations,
1974.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1974, namely:

U.S. combat
activities in
Southeast Asia,
funds, prohibition.

SEC. 108. Notwithstanding any other provision of law, on or after August 15, 1973, no funds herein or heretofore appropriated may be obligated or expended to finance directly or indirectly combat activities by United States military forces in or over or from off the shores of North Vietnam, South Vietnam, Laos or Cambodia.

North Vietnam,
funds, prohibi-
tion.

SEC. 110. Unless specifically authorized by Congress, none of the funds herein appropriated under this joint resolution or heretofore appropriated under any other Act may be expended for the purpose of providing assistance in the reconstruction or rehabilitation of the Democratic Republic of Vietnam (North Vietnam).

Approved July 1, 1973.

Chairman KERRY. Let me just also say that the committee will be printing—when we do our report, it will be a complete chronology. And all documents, all addenda, all side agreements, all conventions, everything that has anything to do with this issue, including Acts of Congress that might have affected actions or part of the testimony of witnesses, will all be part of the final Senate record.

Mr. LAIRD. Senator, I'd like to give you a copy of the *United States and the War in Vietnam*, which I updated in 1966, just for your information. You can do with it what you want, but it does show that period of time from the Eisenhower—when President Eisenhower put the military mission in there, right straight through until the time I took over as Secretary of Defense.

Chairman KERRY. Thank you very much, Mr. Secretary. We welcome it.

Let me just say that from my perspective I thought the Son Tay raid was an outstanding and courageous piece of work. I think that the record shows very clearly that it had a profound impact on the morale of our prisoners. It gave them hope and it electrified the community, and I think it was good. And I also think, knowing what we know of the intelligence it was based on, that the initial information was clearly based on sound intelligence, and one cannot second guess that.

The questions of intelligence, however, and second guessing arise as to subsequent information. Perhaps our capacity to track after we had initial information. And I think there are some fair questions about that, frankly. But clearly it was not initiated on wistful thinking, at least at the outset.

Mr. LAIRD. I want you to know, though, that I put that question to Bull Simon, that if it was only a 50/50 go, would he still go forward. And his answer was yes.

Chairman KERRY. I would concur with that, and that is why I say it was an act of devotion and courage, and I think all of us who had anything to do with that period of time regard those who went in with awe and great respect.

Mr. Secretary, there are additional questions. Time simply does not allow us to cover everything, obviously. You have made yourself very available; we are deeply appreciative of that. I hope we have kept faith with the notion that we are trying to dig at the appropriate issues here.

We are very grateful to you for coming in after all these years. You are one of our distinguished, long-time public servants and a former colleague, and we are delighted to have had you here today. I would ask that you make yourself available for any additional follow ups that we may need for clarification for the written record.

Mr. LAIRD. I am very happy to help the committee in any way I can.

Chairman KERRY. And we thank you.

Vice Chairman SMITH. And I would echo that thank you as well, Mr. Secretary. Thank you.

Chairman KERRY. We will stand in recess until the hour of 1:30 this afternoon.

[Whereupon, at 12:38 p.m., the hearing recessed, to reconvene at 1:30 p.m.]

AFTERNOON SESSION

Chairman KERRY. The hearing will come to order—not that it was in disorder. As I said, we will start at 1:30 p.m. punctually. We are a couple of minutes late, but I thought we ought to get going, notwithstanding that not all my colleagues are here.

Gentlemen, we appreciate very much all of you taking the time to come. This is a distinguished assemblage of significant foreign policy talent and long-term expertise, and we are very happy to be able to gather you all under one roof at one moment and receive your testimony on this issue.

Before I swear you in I want to make a couple of comments, and I think it is very important I make these for the public that is listening, and I make it for the record, and I particularly make it for the press.

Throughout this issue, whenever there is talk or testimony of evidence that someone was alive at a certain point in time and known to be a prisoner, you have to remember that the date that person was taken prisoner may be a number of years distant from the date of Operation Homecoming, so you could in fact have a person known to be a prisoner in 1966 or 1967 or 1968, where the Government last knew that person to be a prisoner, but in fact there was no full gathering of information or no accounting until 1973.

Clearly, that required that that person survived 6 years of captivity, movement in country, bombings, disease, torture, all of the other things that took place, so I really think it is terribly important in these deliberations that there not be a sensationalism created inadvertently, or in some cases purposely.

This committee has uncovered evidence and there is testimony that we have publicly talked about a certain number of people who were last known to have been alive or in captivity. We do not have evidence that says to this committee beyond any doubt, or even clear and convincing, that those same people were in fact alive in 1975, 1976, 1977, 1978, or whatever. There is some evidence suggesting they might have been, and the committee must evaluate that.

So what is really at issue, at least as far as this Senator is concerned, is the question of accountability of the process by which we made some judgments about that accountability, but the committee does not have evidence that 133 people were positively alive in 1977 or 1978, and that must be understood. There is a distinction that must be drawn carefully.

Now, the committee did have evidence of some 244 cases where we thought at the time of Homecoming there were legitimate and serious questions 111 of those were accounted for by returning prisoners themselves who said yes, so-and-so was in prison, he died, and subsequently many of those remains have been returned.

That brings you down to the 133 the committee talked about, which is only 2 different from the 135 that General Vessey talks about, but General Vessey himself would say that on his list of 135, he cannot say conclusively that they were alive in the late 1970's or 1980's. That is a judgment the committee is going to have to make based on other evidence that is before the committee.

I repeat, there is some evidence suggesting it, and that is evidence the committee must evaluate, so I hope this clarifies where we are, and I will repeat this probably again tomorrow and hereafter, because I think it is terribly important to understand it.

Now, that does not abbreviate the seriousness of the questions with respect to accountability or what we did or did not know at the time of Homecoming and so forth.

Now, if I could ask our distinguished panel to stand so I could swear everybody in simultaneously, I would appreciate it. If you would raise your right hands: do you swear, each and individually, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Ambassador LORD. I do.

Mr. ALDRICH. I do.

Mr. RODMAN. I do.

General WALTERS. I do.

Ambassador SULLIVAN. I do.

Chairman KERRY. We will go in the order in which everyone is lined up from my left, so we will proceed from your right, down to General Walters. Therefore, Mr. Lord, if you would lead off with your opening statement if you have one, we would appreciate it.

TESTIMONY OF WINSTON LORD, NATIONAL SECURITY COUNCIL, 1969-1973, SPECIAL ASSISTANT TO NATIONAL SECURITY ADVISOR, 1970-1973, DIRECTOR OF POLICY PLANNING AT STATE DEPARTMENT, 1973-1977

Ambassador LORD. Thank you, Mr. Chairman. In addition to my depositions I have submitted to the committee written responses to some specific questions that you and the vice chairman of the committee sent me, and I assume this will be part of the record. I'll just read a few excerpts of what I think perhaps are the most salient points in what I have submitted, if that's agreeable.

Chairman KERRY. That will be fine.

Ambassador LORD. And it will be in staccato form, and really quite brief.

First, on the negotiations themselves, from the very outset a satisfactory resolution of the POW/MIA issues was a sine qua non of our position. We made clear in every verbal or written presentation of our ideas for a settlement that a return of all our men held captive and accounting for the missing was a nonnegotiable part of any agreement.

Because of our firm position, I do not recall much time being spent on this issue in our talks with the North Vietnamese until the fall of 1972, when the breakthrough occurred. Until then, there was little to discuss, because we refused to budge in our insistence that all POWs be returned as an integral part of the accord and no later than the completion of our withdrawals.

The major problem on this issue during the final stages was the North Vietnamese attempt to link the return of our prisoners with the return of Vietnamese held by the Vietnamese sides. We absolutely refused to do this because of the problems of identifying Vietnamese prisoners as distinct from criminals and the likely delays as bitter enemies dragged their feet.

A major accomplishment of the final agreement was to separate these two issues so that our men would return within 60 days while the Vietnamese sides would try and resolve their prisoner question as soon as possible but with a target of 90 days, i.e., after all our people were out.

Resolution of the POW/MIA issue together with a cease-fire, troop withdrawals, and international supervision, was the core of our position. We insisted on a military solution only, refusing for years to yield to the North Vietnamese demand that we dictate the political future of South Vietnam, including the overthrow of the Thieu Government and the installation of a coalition government.

On October 8, 1972, they finally caved on this question and the final agreement contained only superficial political elements. This was a major achievement of our negotiating efforts, keeping the POW issues, inter alia, separate from political issues. It also gave the South Vietnamese a chance to determine their own future. It was never possible to achieve this before the fall of 1972.

As for Cambodia and Laos, we pressed throughout for a release of all prisoners held throughout Indochina. In the final stages, the North Vietnamese stated that there were no prisoners in Cambodia, and they undertook to arrange through the Pathet Lao a release of men held in Laos.

A brief comment, Mr. Chairman, on the economic aid question which has come up. President Johnson first broached the principle of providing postwar aid to Indochina, including North Vietnam, as part of our historic tradition of seeking to rebuild and to normalize relations with our enemies once the conflict had ended.

We incorporated this principle in our successive draft proposals for an agreement as an incentive to Hanoi to reach a settlement and to honor its implementation. Our projected aid was always for all of Indochina, including our allies. The North Vietnamese sought to label the aid reparations, which we refused.

We always insisted that our aid offer was a unilateral gesture to heal the wounds of war and was not tied to any other issue, most assuredly not the POW issue. The North Vietnamese always pressed for aid as part of an agreement and an obligation on our part and for propaganda purposes portrayed it as such.

Finally, Mr. Chairman, some subjective views that were asked for in your questions. I believe the final agreement was the best possible one at the time, given the mood in America and the pressures on the U.S. side. It was a far better deal than almost anyone on the American scene thought possible, and that almost all of Congress and the media and certainly the demonstrators were calling for.

It is unfair, retrospectively, to forget the atmosphere of the times in evaluating the agreement today. It is unfair to examine our maximum positions during the course of the negotiations and complain that they were not all realized in the end. By definition, any agreement had to be a compromise and reflect the realities of both the battlefield and American domestic support.

All of these considerations apply specifically to the POW/MIA issue as well. The return of prisoners went off without a hitch. Clearly, the MIA issue turned out to be unsatisfying and agonizing. I believe very strong efforts were made to obtain a fuller account-

ing after exchange of the lists. The President in the end decided not to scuttle the agreement and resume the war over the MIA question.

It was a very difficult decision. I believed then it was a correct one. I believe that still. We did not have conclusive proof, and the chairman has just pointed out the context of the evidence. Although we had strongly suggestive intelligence that the lists were incomplete, the American society would have blown apart if the President overturned the agreement and resumed the fighting.

It is doubtful that Congress would have supported such a policy. Indeed, it would probably have prevented it. Our remaining prisoners who were on the lists would not have returned. More Americans and Vietnamese and allies would have been killed and captured.

Finally, a personal note. In hindsight, many today are criticizing Dr. Kissinger. Now, he can assuredly take care of himself, and I'm sure he will tomorrow, and on some issues it is well known I have my own differences with him. Let me state clearly, however, the following: I worked the longest and closest with him on the Vietnam negotiations. I witnessed his dedicated, brilliant, and heroic efforts. He earned and deserved the Nobel Peace Prize.

[The responses to questions of Ambassador Lord follow:]

QUESTIONS AND RESPONSES OF AMBASSADOR LORD BEFORE THE SENATE POW/MIA AFFAIRS COMMITTEE

1. Negotiations Leading to Paris Peace Accords

Question a. Please describe the structure of the U.S. negotiating team during the period leading up to the signing of the Paris Peace Accords (including the "secret negotiations"), and your own duties and responsibilities within that structure.

Answer. President Nixon made the strategic decisions. Dr. Kissinger headed the negotiating team. During the secret negotiations the team consisted of me (after replacing Tony Lake in February 1970); Richard Smyser, who was replaced sometime in 1971-1972 by John Negroponte; Vernon Walters, who also acted as interpreter; and Peter Rodman. In 1972, once the talks were public we were joined at various stages by Al Hag, William Sullivan, David Engle (interpreter), George Aldrich and others.

Question b. Please describe the manner in which talking points and negotiating strategy were developed, including the role you may have had in this process.

Answer. I was a central player in the whole process from February 1970 until February 1973. Smyser, Negroponte and I did the basic staff work, and together with Rodman, the note-taking. Guided by Dr. Kissinger we drew up the strategy papers (cleared by the President), talking points, drafts of agreements, reports to the President, memoranda of conversations, transcripts of meetings, reporting cables to Washington and Saigon, public speeches, materials for backgrounders and press conferences, and the successive drafts of the final agreement. Down the home-stretch Sullivan, Aldrich and others played the central role in the negotiating and drafting of the protocols as well as advising on the central negotiations.

Question c. Please describe the evolution of U.S. negotiating strategy with respect to the return and full accounting of American POW/MIAs, including any consideration given to the "French experience" in negotiating with Vietnam for the release of prisoners.

Answer. From the very outset a satisfactory resolution of the POW/MIA issues was a sine qua non of our position. We made clear in every verbal or written presentation of our ideas for a settlement that a return of all our men held captive and accounting for the missing was a non-negotiable part of any agreement. Because of our firm position I do not recall much time being spent on this issue in our talks with the North Vietnamese until the fall of 1972 when the breakthrough occurred. Until then there was little to discuss because we refused to budge on our insistence that all POWS be returned as an integral part of an accord, and no later than the completion of our withdrawals. The major problem on this issue during the final

stages was the North Vietnamese attempt to link the return of our prisoners with the return of Vietnamese held by the Vietnamese sides. We absolutely refused to do this because of the problems of identifying Vietnamese POWs as distinct from criminals and the likely delays as bitter enemies dragged their feet. A major accomplishment of final agreement was to separate these two issues so that our men would return within 60 days while the Vietnamese sides would try and resolve their prisoner question as soon as possible but with a target of 90 days, i.e. after all our people were out. I do not recall any consideration of the "French experience" although it is possible that Sullivan and his team drew upon this in negotiating the protocols.

Question d. Please describe the data base upon which the U.S. negotiators relied with respect to the POW/MIA issue, including the sources of information and any efforts on the part of negotiators to obtain more detailed and precise data.

Answer. We relied on our intelligence sources, primarily DIA and CIA, I believe.

Question e. Please describe the relationship of the POW/MIA issue to other U.S. negotiating objectives.

Answer. See c. above. Resolution of the POW/MIA issue, together with a cease-fire, troop withdrawals and international supervision, was the core of our position. We insisted on a military solution only, refusing for years to yield to the North Vietnamese demand that we dictate the political future of South Vietnam, including the overthrow of the Thieu Government and installation of a coalition government. On October 8, 1972 they finally caved on this question and the final agreement contained only superficial political elements. This was a major achievement of our negotiating efforts, keeping the POW issues, inter alia, separate from political issues. It also gave the South Vietnamese a chance to determine their own future. It was never possible to achieve this before the fall of 1972.

Question f. Please describe the course of negotiations on the POW/MIA issue including:

- (1) major differences between United States and North Vietnam, and how and when those differences were resolved;
- (2) discussions concerning the release of Americans captured in Cambodia or Laos;
- (3) discussions concerning the timing of release of prisoners, and the timing of the exchange of POW lists.

Answer. For (1) and (3) see c. and e. above. As for Cambodia and Laos we pressed throughout for a release of all prisoners held throughout Indochina. In the final stages the North Vietnamese stated that there were no prisoners in Cambodia and they undertook to arrange through the Pathet Lao for a release of men held in Laos.

2. Economic Aid

Question a. Please describe the evolution of negotiations concerning U.S. reconstruction aid and its relationship, if any, to the POW/MIA issue.

Answer. President Johnson first broached the principle of providing postwar aid to Indochina, including North Vietnam, as part of our historic tradition of seeking to rebuild and normalize relations with our enemies once the conflict had ended. We incorporated this principle in our successive draft proposals for an agreement as an incentive to Hanoi to reach a settlement and to honor its implementation. Our projected aid was always for all of Indochina, including our allies. The North Vietnamese sought to label the aid "reparations" which we refused. We always insisted that our aid offer was a unilateral gesture to heal the wounds of war and was not tied to any other issue, most assuredly not the POW issue. The North Vietnamese always pressed for aid as part of an agreement and an obligation on our part and for propaganda purposes portrayed it as such.

Question b. Please describe, more specifically, the arrangements made for delivering the reconstruction aid promise (the Nixon letter) to Vietnam and its relationship to obtaining a list from the Vietnamese of Americans captured in Laos.

Answer. To underscore our position that the reconstruction element was of a different nature, we declined to spell out any details in the agreement itself. We agreed to send a letter to Hanoi 3 days after the signing of the Accord, (i.e. January 30, 1973) more clearly spelling out our intentions. When the North Vietnamese failed to give us a Laos list of prisoners we held back our letter until they did. There was then a simultaneous exchange. We used the letter as leverage to make Hanoi honor its promise to deliver a Laos list. It was the most immediate lever available to us.

3. Implementation of Agreement

Question a. Please describe the reaction among U.S. negotiators and other informed U.S. officials to the prisoner lists turned over by North Vietnam in behalf of itself, the Viet Cong, and the Pathet Lao.

Answer. We were disappointed that the lists were not longer, especially the Laos one. Our intelligence sources suggested that many more men might still be alive in Indochina although we did not have conclusive proof. We were naturally suspicious of Hanoi after all our experience.

Question b. Please describe efforts made, and strategies considered and used, between January 27 and March 29, 1973 to obtain more complete lists, or a more complete accounting, from North Vietnam and Laos concerning American POW/MIAs.

Answer. I did not recall much on this question until being shown documents during my meetings with the committee staff. We pressed Hanoi vigorously to account for the discrepancies between its lists and our intelligence data, both with respect to Vietnam and Laos. On our trip to Hanoi in February 1973 Dr. Kissinger raised this issue forcefully, using in particular some 80 cases (I believe in both Vietnam and Laos) of men whose photographs had appeared in Vietnamese publications or with whom U.S. authorities had voice contact on the ground in Indochina. The documents shown me tell of strong consideration being given by the U.S. Government to taking military action and/or holding up implementation of the agreement in the latter part of March 1973 so as to press Hanoi on this issue. In the end we did not resort to such measures.

4. Post-Homecoming

Question a. Please describe any role you may have had in formulating U.S. policy, statements or negotiating strategy concerning American POW/MIAs subsequent to Operation Homecoming.

Answer. Aside from the preparations for and conduct of the Kissinger February 1973 trip to Hanoi I do not recall playing a major role concerning POW/MIAs subsequent to Operation Homecoming.

5. Subjective Views

Question a. Please provide your personal evaluation of U.S. negotiating strategy on the POW/MIA issue, taking into account:

- (1) the French experience in negotiating with Vietnam;
- (2) political and other pressures operating on the negotiators of either side; and
- (3) the level of knowledge provided by U.S. sources concerning the number, identity and location of American POW/MIAs.

Answer. I believe the final agreement was the best possible one at the time, given the mood in America and the pressures on the U.S. side. It was a far better deal than almost anyone on the American scene thought possible and than almost all of Congress and the media (and certainly the demonstrators) were calling for. It is unfair retrospectively to forget the atmosphere of the times in evaluating the agreement today. It is unfair to examine our maximum positions during the course of the negotiations and complain that they were not all realized in the end. By definition any agreement had to be a compromise and reflect the realities of both the battlefield and American domestic support. All of these considerations apply specifically to the POW/MIA issue as well. The return of prisoners went off without a hitch. Clearly the MIA issue turned out to be unsatisfying and agonizing.

Question b. Please provide your personal evaluation of U.S. efforts after the signing and exchange of lists to demand a fuller accounting of American POW/MIAs.

Answer. I believe very strong efforts were made to obtain a fuller accounting after the exchange of the lists. The President in the end decided not to scuttle the agreement and resume the war over the MIA question. It was a very difficult decision. I believed then it was a correct one. I believe that still. We did not have conclusive proof, although we had strongly suggestive intelligence that the lists were incomplete. The American society would have blown apart if the President overturned the agreement and resumed the fighting. It is doubtful that Congress would have supported such a policy; indeed it would probably have prevented it. Our remaining prisoners who were on the lists would not have returned. More Americans (and Vietnamese and allies) would have been killed and captured.

Question c. Please provide your personal assessment of the U.S. Government's openness and frankness with the American people on the MIA/POW issue.

Answer. From February 1973 onward I was never centrally involved in this question. I left the Government for a few months in the spring of 1973, returning to the State Department in September 1973. My responsibilities thereafter never included this question. Thus my knowledge is limited.

ADDITIONAL QUESTIONS FOR WINSTON LORD

Question 1. On September 27, 1972, Dr. Kissinger wrote in a cable to General Haig that the DRV's refusal to include Laos and Cambodia in the draft agreement's formal POW provisions was a "major issue" of disagreement remaining between the two sides. Was this an accurate statement at the time? If so, why was the USG willing ultimately to change its position on this "major issue" to accept an informal "side understanding" on POWs in Laos and no agreement at all on POWs in Cambodia?

Question 2. Cable traffic you have reviewed during the past few weeks indicates the following:

On October 20, 1972, President Nixon sent a cable to the DRV Prime Minister, Pham Van Dong, insisting that the DRV make the following "unilateral declaration" on U.S. POWs in Laos and Cambodia:

"With respect to U.S. military men and civilians held in Indochinese countries outside of Vietnam, the DRV undertakes to make arrangements for their identification and return to the United States authority in accordance with the same schedule established for the release of U.S. military men and civilians detained in Vietnam. The DRV will also assure that the provision in the overall agreement for verification of those U.S. military men and civilians considered missing in action will be applied also in Laos and Cambodia."

On October 21, 1972, the DRV's Prime Minister responded, as follows:

"The Lao Patriotic Front has informed the DRV side that it is ready to agree with the other side on a cease-fire in Laos within one month of October 31, 1972, or within a shorter period of time, and that the Americans captured in Laos will be promptly released, before December 30, 1972."

Then, on October 22, 1972, President Nixon cabled back to the DRV:

"The President notes with appreciation the message from the Prime Minister of the DRV which satisfies all his points with respect to Laos and Cambodia as well as U.S. prisoners."

Do you agree that the "side understanding" on U.S. POWs in Laos, as set forth in these three cables, was less specific and definite than the U.S. Government wanted?

Why would President Nixon say that the DRV had "satisfied all his points" when it is so clear that the DRV had not satisfied all his points? Specifically, why did the U.S. Government agree to a "side understanding" where there was:

- (i) nothing in the DRV's cable about U.S. POWs in Cambodia;
- (ii) nothing in the DRV's cable about U.S. MIAs in Laos or Cambodia; and
- (iii) nothing in the DRV's cable about releasing U.S. POWs in Laos "in accordance with the same schedule established for the release of U.S. military men" in Vietnam?

Question 3. On August 19, 1972, Dr. Kissinger told Le Duc Tho during a negotiating session that the DRV must account for U.S. MIAs "throughout Indochina."

Why was the USG willing ultimately to sign an agreement which neither formally nor informally required an accounting for its MIAs in Laos and Cambodia?

Answer. The first three questions can be grouped together because the fundamental reply is the same: you cannot always achieve your maximum objectives in a negotiation. This is all the more true when your leverage is limited, as it most emphatically was for the American side in these negotiations because of domestic pressures and the battlefield equation.

It is possible, in examining any negotiating history, to cite discrepancies between an initial (and therefore maximum) position and the final outcome. This is the case for these three questions. We would have preferred to obtain what we initially set forth but were willing to settle for something less in the context of an overall agreement that was acceptable. In these cases Hanoi made moves toward our positions.

Meanwhile it also was making concessions in other areas, most notably in settling for a military agreement only and effectively dropping its political demands.

(1) On September 27, 1972, it was accurate to consider the lack of formal POW provisions on Laos and Cambodia as a major issue. There were also many other major issues outstanding at that time. The most decisive breakthrough came later, on October 8, 1972 when the North Vietnamese made fundamental concessions. They continued to make others as the negotiations proceeded down the homestretch. On this issue, as with all those concerning Laos and Cambodia, Hanoi maintained that it could not speak for the other authorities. We did obtain a statement from them that there were no prisoners in Cambodia and a separate understanding on Laos.

(2) The "side understanding" in these three cables was less specific and definite than what the U.S. Government wanted. Again, we were unable to achieve our maximum objectives, but there was movement by Hanoi on these issues, so they also changed their initial positions. I do not recall what else was in these three cables. The phrase "satisfies all his points" could perhaps have been drafted more felicitously. Presumably the main point we were conveying here was that we could live with this compromise in the context of the overall agreement, including major North Vietnamese concessions, that was rapidly taking shape.

Question 4. We understand that Dr. Kissinger attempted repeatedly to make it clear to the DRV that the payment of reconstruction aid was dependent upon constitutional limitations here in the United States—i.e., upon congressional approval. Nevertheless, Dr. Kissinger stated in his deposition to the committee that it is certainly possible that the leaders of the DRV—with their backgrounds and experiences in totalitarian regimes—simply did not understand or believe that a written promise of money, signed by the President of the United States, was dependent upon congressional approval. Do you agree with Dr. Kissinger's appraisal of this possible misunderstanding on the part of the DRV? Were you and other members of Dr. Kissinger's team aware at the time that the DRV might erroneously believe that the Nixon aid letter, by itself, was sufficient to bind the USG to the aid promise?

Answer. I doubt very much that the DRV misunderstood that we needed congressional approval. It is possible that they thought that the President, especially with an overwhelming reelection mandate, would be able to get this approval without real difficulty. It was, of course, to the North Vietnamese advantage to pretend they did not understand. I cannot speak for the others on the American team in recollection, but I never thought the DRV misunderstood that aid was conditional on congressional approval—and on honoring the agreement.

Question 5. As a general matter, is it true that two sides to a negotiation sometimes intentionally agree to have ambiguous sections in an agreement, even while knowing full well that the two sides interpret the ambiguities differently, because the inclusion of ambiguities is the only way for the two sides to reach an overall agreement? To your knowledge, did this practice of agreeing to retain ambiguous sections in an agreement occur in the Paris talks?

Answer. Yes. Yes.

Question 6. On September 26, 1972, Le Duc Tho said to Dr. Kissinger during a secret negotiating session in Paris: "Regarding the question of prisoners of war . . . If you satisfactorily solve the political question and the question of reparations, then we can find an understanding (on the release of U.S. POWs in Laos)." Did Dr. Kissinger try to make it clear to the DRV that the release of U.S. POWs was not to be linked to any other part of the agreement other than the withdrawal of U.S. troops from SVN? Yet do you agree that, with statements like those made by Le Duc Tho on September 26, 1972, the DRV tried to make it clear that they viewed the release of U.S. POWs in Laos as linked to the issue of reparations? Is this an example of a situation where the USG and the DRV agreed to retain an ambiguous point (i.e., whether there was linkage between the release of U.S. POWs in Laos and the payment of reconstruction aid), knowing full well that the two sides interpreted the ambiguity differently?

Answer. (a) I am confident that Dr. Kissinger made clear that POWs could not be linked to political issues or reparations. I do not recall whether the only linkage was to withdrawals or as part of a military settlement generally, e.g. including a cease-fire. In the final agreement there was a clear direct linkage in the 60 day timetables for release of prisoners and withdrawal of the remaining U.S. troops. This surely buttresses the argument that other issues were not linked to the POW question.

(b) The statement cited contained this linkage, but I do not recall how persistently they used this kind of formulation. I am not at all certain that they seriously made

this linkage in their own minds. I am certain that they knew we rejected it. And the agreement itself, as noted under (a), makes clear where any linkage existed.

(c) No.

Question 7. Alexander Haig testified in his deposition that, as a general rule, it is not good practice to reach ambiguous agreements, because such agreements tend not to survive the test of time. Do you agree with this position? Did the USG violate this rule in the Paris Peace negotiations?

Answer 7. (a) Of course it is better to have firm agreements rather than ambiguous ones.

(b) It is a preference, not a rule. In some circumstances it is better to have an agreement with an acceptable mix of clarity and ambiguity than no agreement at all. The best is often the enemy of the good.

Question 8. As you prepared for your testimony last month, you reviewed cable traffic which indicates that the USG's delivery of the Nixon aid letter and its receipt of the DRV's list of U.S. POWs in Laos became linked in fact, when the DRV was late in providing the Laos list and the USG refused to deliver the aid letter until it received the Laos list? Specifically, this cable traffic makes it clear that, as Heyward Isham told Dr. Kissinger in a February 1, 1973 cable from Paris, the Nixon aid letter and the DRV's Laos list were "buffalo traded" as "quid pro quo" for each other. Would you agree that the linkage-in-fact of the exchange of the aid letter for the Laos list on February 1, 1973, could only have strengthened the DRV's belief that the issues of reconstruction aid and U.S. POWs in Laos were linked?

Answer. They were trying to link the two issues wherever they could. We used the leverage at hand at that time, i.e. the President's letter. While the DRV may have found it convenient to claim linkage between Laos POWs and aid, we always insisted that the two were not linked. I am confident that they always understood our position. Naturally they have pretended otherwise and have sought through the years to gain aid (and normalization) by playing around brutally with this issue, dribbling out information in cynical fashion, compounding the anguish of the MIA families. Their posture reflects their calculation that this issue gives them leverage, not their feeling that we have reneged on a promise. Let us not fall into that trap.

Chairman KERRY. Ambassador Sullivan.

TESTIMONY OF WILLIAM H. SULLIVAN, AMBASSADOR TO LAOS, 1964-1968, CHIEF OF U.S. MISSION TO LAOS, 1968-1969, DEPUTY ASSISTANT SECRETARY OF STATE FOR EAST ASIAN AND PACIFIC AFFAIRS, 1969-1973

Ambassador SULLIVAN. Thank you, Mr. Chairman.

Mr. Chairman, Senator Smith, Senator Daschle, I do not have a prepared statement, but I would like to say a few words.

First, I would like to applaud the creation and the establishment of this committee. It seems to me that the issue of POWs and MIA has become one of the most frustrating, vexing, and agonizing issues in the residue of the Vietnam War, and I think that your objective to produce a comprehensive and definitive report which will attempt to sort the facts from the myths and which will bring to the American public as complete accounting as you can make of this measure is something that will be a great service to the country.

The torment, the cruel agony that the POW/MIA families have suffered during all this time as a result of absence of information, of conflicting information, and indeed of some misinformation, some of it innocent but some of it deliberately misleading, is certainly a great torment for them in all this period.

So I hope when you produce your report, or when you get to producing your report, even if you have differences among yourselves or among your staff and cannot make definitive findings, that you will in those areas when you cannot agree produce all the facts

that you can and leave it up to the American public to be able to make their own decisions on the basis of informed information.

I have given, as you know, Mr. Chairman, 2 days of deposition to your staff. I unfortunately did not receive these issues which were sent to my address in Mexico. I guess I was traveling, because I've been traveling for the last 2 or 3 weeks, so I received them only this morning so I have no comparable statement of the sort that Ambassador Lord just read.

Let me say, however, that I am prepared to do the best I can from my memory, which is not as keen as it was 20 years ago, and also on facts which took place 20 to 25 years ago, and hope that I can be helpful this morning—this afternoon in your service.

Thank you.

Chairman KERRY. Thank you very much, Mr. Ambassador.
Mr. Aldrich.

TESTIMONY OF GEORGE H. ALDRICH, LEGAL ADVISOR TO STATE DEPARTMENT, 1965-1981

Mr. ALDRICH. Thank you Mr. Chairman, Senators.

I think I should begin by explaining briefly what my involvement was in the Paris negotiations. From 1965 until 1969 I was the assistant legal advisor in the Department of State for East Asian and Pacific Affairs, and from 1969 to 1977 was deputy legal advisor in the Department.

In those capacities, I was understandably involved in all the issues concerning the application of the laws of war in the conflict in Indochina and, of course, in particular in our efforts to improve the treatment of our men who had been captured by the enemy.

In that connection, I went to the International Red Cross conferences in 1965 and 1969 with Ambassador Martin to promote resolutions trying to put pressure on the North Vietnamese. We did a number of other things. We tried very hard to get a protecting power to look after our prisoners. We were unsuccessful, because the North Vietnamese simply would not agree.

I made several visits to South Vietnam, including in 1967 an inspection of prisoner of war camps operated by the Republic of Vietnam to try to ensure that our ally respected the Geneva Conventions even if the North did not, as another effort to put pressure on the other side.

Of course, I also did what I could as a lawyer to suggest possible approaches to ending the armed conflict, working first with Governor Harriman and subsequently with Ambassadors Lodge, Habib, and Sullivan.

I spent the summer of 1969 in Paris as legal advisor to Ambassador Lodge, but of more interest directly at the moment my involvement in the final negotiating effort began only in late October 1972, when Ambassador Sullivan informed me that secret negotiations had taken place between Dr. Kissinger and the North Vietnamese and showed me the text of the draft agreement as it stood at that time.

Ambassador Sullivan asked me in strict confidence and on behalf of Dr. Kissinger whether I felt that some more detailed provisions would be necessary or useful. After careful review, I concluded, I

suppose as I was expected to conclude, that more detailed provisions were desirable, particularly with respect to the terms of reference of the International Commission of Control and Supervision, the definition of the cease-fire, the functions of the joint military commissions, and the return of prisoners.

I proceeded at that point to draft three agreements which we call protocols to carry out these suggestions. In Paris, I waited simply in the wings until Dr. Kissinger decided to introduce the draft protocols in the negotiations which, if I remember correctly, was sometime late in November 1972.

Several weeks later, the North Vietnamese responded with their counterproposals and I was invited for the first time to a negotiating session, which was at that point the last one between Dr. Kissinger and Le Duc Tho in December of 1972.

I remained in Paris and Ambassador Sullivan, Ambassador William Porter and I then had several meetings which I have to describe as utterly useless with the North Vietnamese, who refused to discuss the draft protocols in any detail and then suspended our talks after the beginning of B-52 raids on Hanoi, but on New Year's Day 1973 Ambassador Sullivan and I returned to Paris and entered immediately into daily and intensive negotiations with a North Vietnamese delegation led by then Deputy Foreign Minister and later Foreign Minister Nguyen Co Thach.

These negotiations lasted nearly 3 weeks and were devoted entirely to the protocols, including, I might add, a fourth protocol on the clearance of mines.

During the week in January that Dr. Kissinger and Le Duc Tho also met, Ambassador Sullivan and I continued the parallel negotiations on the protocols. The texts of these protocols were finally completed only in a day or two, I think, before they were initialed by Dr. Kissinger and Le Duc Tho on January 23, 1973.

To the best of my memory, the protocol negotiations that we put in during those 3 weeks devoted much more time to the definition of the cease-fire and the terms of reference of the several commissions that they did to the prisoners and missing in action. Nevertheless, the protocol on captured and missing personnel added, I think, a number of significant undertakings to those which are found in the agreement itself.

You will recall that Article 8 of the agreement provided succinctly in paragraph (a) that complete lists of all captured military personnel and foreign—that is, non-Vietnamese civilians—would be exchanged when the agreement was signed, that these military and civilian captives would be returned, although it didn't say to whom they would be returned, simultaneously with the withdrawal of United States and allied military personnel, and that the return would be completed within the same 60-day time period.

In paragraph (b) of Article 8, it also required the parties to cooperate in accounting for those who were missing and in the repatriation of the remains of the dead.

In implementation of those basic obligations of the agreement the protocol added the following relevant, and I think useful, undertakings. First, it provided that all captured military and civilian personnel of the United States and its allies were to be returned to the U.S. authorities.

Second, it provided that the rate of return could be no slower than the rate of withdrawal of the United States and allied forces. In other words, the prisoners couldn't all be kept behind until the last day.

Third, it provided that the return of the personnel was to be carried out at places convenient to the concerned parties, which were to be agreed upon by the four party joint military commission. We had tried to get agreement in advance. That was, I think, for various reasons unacceptable to the other side.

But the assurance that it would be convenient and that it would be mutually agreed upon provided us the assurance that they would not be turned loose in the jungle or other places where they could not be adequately cared for.

Fourth, the protocol required the parties to ensure the safety of the personnel engaged in the return and reception of captured personnel.

Fifth, it provided, most importantly, that return could not be denied or delayed for any reason, including the fact that captured persons may have been prosecuted or sentenced. This was particularly important given the fact that North Vietnam, as with all of the other Communist countries, had a reservation to the relevant article of the Geneva Conventions that required persons to remain prisoners of war even if they were tried and convicted of crimes.

And since North Vietnam had made many accusations that American pilots were all guilty of war crimes, it was important to get in the agreement something that said, even if you consider the person a criminal, even if you tried him, even if you sentenced him, he must be returned.

Sixth, humanitarian treatment of captives was required prior to their return, and visits to places of captivity by Red Cross personnel was to be agreed upon within 15 days. Again, we would have preferred to have that agreed upon in the agreement. It was not possible.

Seventh, the responsibility of the four party joint military commission to ensure joint action by the parties was defined in the protocol to include the agreement on modalities of return, the observation of the return by joint military teams and, in Article 10 of the protocol, accounting for the missing dead persons.

This four party joint military commission responsibility, if you look at the protocol of the cease-fire, where the powers of the four party commission are defined, included the right of the commission to go to whatever places were necessary to carry out its obligations. And it was a clear understanding that when the four party joint military commission otherwise went out of business at the end of the 60-day period, there would be a four party joint military team remaining in effect, in place, for the purpose of carrying out the accounting for the missing in action and the return of remains.

Eighth, the responsibility of the international commission with respect to the return of captured personnel was defined to include the observation of the return and the investigation of any violations of the protocol.

And finally, the text of the protocol was required to be given to each prisoner within 5 days after the signature of the agreement in protocol.

I should add that during the negotiations, I was informed that among the so-called secret understandings that had been reached in the Kissinger-Tho meetings there was one in which North Vietnam assured us that, quote, all U.S. military and civilian prisoners detained in Laos shall be released no later than 60 days following the signature of the agreement, end quote.

It must be noted, however, as I know the committee has already done, that the only reference in the Vietnam agreement itself to Laos is found in the very general undertakings of Article 20 of the agreement. General—important, but general. Consequently, the obligations of the agreement and the protocols concerning the accounting for the missing and the location and repatriation of the remains of the dead did not clearly extend to Laos, although if you look at the text of Article 8 itself, it doesn't contain an explicit limitation to Vietnam either.

While Article 5 of the subsequent Laotian cease-fire agreement contained some undertakings of this kind with respect to accounting, the United States, of course, was not a party to that agreement. And it's clear that the four party joint military commission in Vietnam, which had the responsibility there for accounting, had no jurisdiction to operate in Laos.

We pursued the matter of accounting for those who were missing in a series of negotiations in Paris during April, May, and June 1973. As before, some of these negotiating sessions involved the participation of Dr. Kissinger and Le Duc Tho, while others were between Thach and Sullivan.

I believe that I attended all of those sessions, although, as usual there were a few, of course, private conversations between the two delegation leaders. These sessions culminated in a four party joint communique that was signed on June 13, 1973. The communique included an agreement that, quote, any captured personnel covered by Article 8(a) of the agreement—that is, military personnel and non-Vietnamese civilians—who have not yet been returned shall be returned without delay, and in any event within no more than 30 days, end quote.

The communique also stated, quote, in conformity with Article 8(b) of the agreement, the parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of remains, and to take any such other measure as may be required to get information about those still considered missing in action. For this purpose, frequent and regular liaison flights shall be made between Saigon and Hanoi, end quote.

In his press statement on the same day that the communique was signed—that is, June 13, 1973—Dr. Kissinger said that, quote, all sides have pledged that they would make major efforts to help each other to account for the missing in action throughout Indochina, and this is a matter that is of great concern to the United States.

That statement, with its reference to, throughout Indochina, was made pursuant to an understanding with Le Duc Tho that North Vietnam was obligated to assist the United States in this matter

with the Pathet Lao, and that the United States could so state publicly.

It was my view at the time, Mr. Chairman, and continues to be my view today that in these negotiations, we succeeded in obtaining provisions that required the return of all of our captured personnel, and serious and continuing efforts to account for the missing and to locate the remains of the dead.

To the extent that these provisions were not carried out, the causes, I believe, are to be found in the general breakdown of the settlement, particularly in the reluctance of the Vietnamese parties to respect the cease-fire and the national reconciliation provisions, the failure—the inability to achieve a mutual cease-fire in Cambodia while the United States ceased its involvement pursuant to U.S. legislation, our consequent inability to offer North Vietnamese the benefits—the carrot, if you will—of economic aid and normalization of relations and, of course, the consequences of the unfolding scandal called Watergate.

Thank you, sir.

[The prepared statement of Mr. Aldrich follows:]

NOT FOR PUBLICATION
UNTIL RELEASED BY THE
SENATE SELECT COMMITTEE
ON POW/MIA AFFAIRS

STATEMENT BY

GEORGE H. ALDRICH

BEFORE THE

SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS

21 SEPTEMBER 1992

NOT FOR PUBLICATION
UNTIL RELEASED BY THE
SENATE SELECT COMMITTEE
ON POW/MIA AFFAIRS

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Mr. Chairman, Members of the Committee, Ladies and Gentlemen:

It is a pleasure to appear before you today. I would like to note at the outset my gratitude to my fellow members of the Iran-United States Claims Tribunal for their understanding in changing the work schedule of the Tribunal so that I can be here today.

Let me begin by summarizing my involvement in the Paris negotiations. From 1965 until 1969, I was the Assistant Legal Adviser for East Asian and Pacific Affairs of the Department of State, and from 1969 to 1977 I was Deputy Legal Adviser. In those capacities, I was involved in all issues concerning the application of the laws of war in the conflict in Indochina and, in particular, in our efforts to improve the treatment of our men captured by the enemy. In that connection, I made several visits to South Vietnam, including a 1967 inspection of POW camps operated by the Republic of Vietnam. I also did what a lawyer could do to suggest possible approaches to ending the armed conflict, working first with Governor Harriman and subsequently with Ambassadors Lodge, Habib, and Sullivan. I spent the summer of 1969 in Paris as legal adviser to Ambassador Lodge.

My involvement in the final negotiating effort began in late October 1972 when Ambassador Sullivan informed me that secret negotiations had taken place between Dr. Kissinger and

the North Vietnamese and showed me the text of the draft agreement as it stood at that time. Ambassador Sullivan asked me in strict confidence and on behalf of Dr. Kissinger whether I thought that some more detailed provisions would be necessary or useful. After careful review, I concluded that more detailed provisions were desirable with respect to the terms of reference of the International Commission of Control and Supervision, the definition of the ceasefire, the functions of the joint military commissions, and the return of prisoners. I proceeded to draft three protocols to carry out these suggestions.

In Paris, I waited in the wings until Dr. Kissinger decided to introduce the draft Protocols, which he did, if I remember correctly, sometime late in November, 1972. Several weeks later, the North Vietnamese responded with their counterproposals, and I was invited for the first time to a negotiating session - the last one between Dr. Kissinger and Le Duc Tho in December 1972. Ambassador Sullivan, Ambassador William Porter and I then had several utterly useless meetings with the North Vietnamese, who refused to discuss the draft protocols in any detail, and then suspended our talks after the beginning of B-52 raids on Hanoi.

On New Years Day 1973, Ambassador Sullivan and I returned to Paris and entered immediately into daily, intensive

negotiations with a North Vietnamese delegation led by then Deputy Foreign Minister Nguen Co Thach. These negotiations lasted nearly three weeks and were devoted entirely to the Protocols; including a fourth Protocol on mine clearance. During the week in January that Dr. Kissinger and Le Duc Tho also met, Ambassador Sullivan and I attended only part of those sessions and continued the parallel negotiations on the Protocols. The texts of the Protocols were finally completed only a day or two prior to their initialing by Dr. Kissinger and Le Duc Tho on January 23, 1973.

To the best of my memory, the Protocol negotiations spent much more time on the definition of the ceasefire and the terms of reference of the several commissions than on the prisoners and missing in action. Nevertheless, the Protocol on captured and missing personnel added a number of significant undertakings to those in the Agreement itself. You will recall that Article 8 of the Agreement provided succinctly in paragraph (a) that complete lists of all captured military personnel and foreign (that is, non-Vietnamese) civilians would be exchanged when the Agreement was signed, that these military and civilian captives would be "returned" (to whom was not stated) simultaneously with the withdrawal of U.S. and allied military personnel, and that the return would be completed

within the same sixty-day time period. In paragraph (b) the Article also required the Parties to cooperate in accounting for those who were missing and in the repatriations of the remains of the dead.

In implementation of those basic obligations, the Protocol added the following relevant, useful undertakings:

(1) All captured military and civilian personnel of the United States and its allies were to be returned to United States authorities;

(2) The return must be at a rate no slower than the rate of withdrawal of U.S. and allied forces;

(3) The return of captured personnel was to be carried out at places convenient to the concerned Parties which were to be agreed upon by the Four-Party Joint Military Commission;

(4) The Parties were required to ensure the safety of personnel engaged in the return and reception of captured personnel;

(5) Return could not be denied or delayed for any reason, including the fact that captured persons may have been prosecuted or sentenced;

(6) Humanitarian treatment of captives was required prior to their return, and visits to places of captivity by Red Cross personnel was to be agreed upon within fifteen days;

(7) The responsibility of the Four-Party Joint Military Commission to ensure joint action by the Parties was defined to include the agreement on the modalities of return, the observation of the return by joint military teams, and, in Article 10 of the Protocol, accounting for the missing and dead persons;

(8) The responsibility of the International Commission with respect to the return of captured personnel was defined to include the observation of the return and the investigation of any violations of the Protocol;

(9) Finally, the text of the Protocol was required to be given to each captive within five days after its signature.

During the negotiations, I was informed that, among the so-called secret understandings that had been reached in the Kissinger-Tho meetings, was one in which North Vietnam assured us that "all U.S. military and civilian prisoners detained in Laos shall be released no later than 60 days following the signature of the Agreement." It must be noted, however, that the only reference in the Vietnam Agreement to Laos is found in the very general undertakings of Article 20 of the Agreement; consequently the obligations of the Agreement and the Protocols concerning the accounting for the missing and the location and repatriation of the remains of the dead did not clearly extend

to Laos, although they were not explicitly limited to Vietnam either. While Article 5 of the Laotian ceasefire agreement contained some undertakings of that kind, the United States was not a Party to that agreement, and the Four-Party Joint Military Commission in Vietnam, which was to carry out the accounting there, clearly had no jurisdiction in Laos.

We pursued the matter of accounting for those who were missing in a series of negotiations in Paris during April, May, and June 1973. As before, some of these negotiating sessions involved the participation of Dr. Kissinger and Le Duc Tho, while others were between Thach and Sullivan. I believe that I attended all of those sessions. They culminated in a four-Party joint communique signed on June 13, 1973. The Communique included an agreement that "any captured personnel (covered by Article 8 (a) of the Agreement [that is, military personnel and non-Vietnamese civilians] who have not yet been returned shall be returned without delay and in any event within no more than thirty days..." The Communique also stated:

In conformity with Article 8 (b) of the Agreement, the parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measure as may be required to get information about those still considered missing in action. For this purpose, frequent and regular liaison flights shall be made between Saigon and Hanoi.

In his press statement on June 13, 1973, Dr. Kissinger said that "all sides have pledged that they would make major efforts to help each other to account for the missing in action throughout Indo-China, and this is a matter which is of great concern to the United States." [Emphasis added] That statement was made pursuant to an understanding with Le Duc Tho that North Vietnam was obligated to assist the United States in this matter with the Pathet Lao and that the United States could so state publicly.

It was my view at the time, and continues to be my view today, that we succeeded in obtaining in the negotiations provisions that required the return of all of our captured personnel and serious and continuing efforts to account for the missing and locate the remains of the dead. To the extent these provisions were not carried out, the causes are to be found in the general breakdown of the settlement, particularly the reluctance of the Vietnamese parties to respect the ceasefire and the national reconciliation provisions, the failure to achieve a mutual ceasefire in Cambodia (while the United States ceased bombing pursuant to U.S. legislation), our consequent inability to offer North Vietnam the "carrot" of economic aid and normalization of relations, and the consequences of the unfolding Watergate scandal.

Chairman KERRY. Thank you very much. I appreciate it. Mr. Rodman?

TESTIMONY OF PETER W. RODMAN, STAFF, NATIONAL SECURITY COUNCIL, 1969-1977

Mr. RODMAN. Thank you, Mr. Chairman. I did not submit a prepared statement. I have the list of questions that the committee submitted to me, and I'm prepared to answer those questions as they come up in the hearing or in any other way the committee prefers.

I would like to take the opportunity to thank the committee for the courtesy with which it has dealt with me during the deposition process and in every other respect, and I'd like to commend the committee for the fairness and the seriousness with which it is going about this inquiry.

But I also would like to associate myself unreservedly with what Winston Lord said at the beginning—about the choices that the country faced at that time, about the good faith of the people in our Government who were facing those choices, and most particularly about Henry Kissinger.

I have a personal association with Henry Kissinger that goes back 29 years, and I was privileged to get involved in some portion of this Vietnam drama as it was reaching its climax. And I have to say I absolutely agree with Winston about it. I have never seen a public servant working with such passion, and such dedication, and such moral conviction in the service of his country.

He was determined to end this war in a way that would bring the country together. And he was also determined to try to end the war through negotiation. As you may know, he was almost alone at the high levels of the Administration in believing that a negotiated outcome was possible or desirable. The other option that we had was Vietnamization. Or, at least, the other option being considered was to pull our troops out gradually and let the chips fall where they may.

But Dr. Kissinger believed that a negotiated outcome was achievable, and that it was preferable. And one of the reasons for his opinion was precisely that only if there were a negotiated outcome did we have a prospect of getting our prisoners back, or have any decent chance for an accounting for our missing.

So, let me stop there. I appreciate the chance to say this, and thank you.

Chairman KERRY. Thank you very much, Mr. Rodman. General or Ambassador, what do you prefer?

General WALTERS. Sir, only the General is paying me pension.

Chairman KERRY. OK.

[Laughter.]

General WALTERS. My position is that political appointees should not carry the title into retirement, only career foreign service officers who spent their lives earning it.

Chairman KERRY. Well, we will call you General.

TESTIMONY OF GENERAL VERNON A. WALTERS, DEPUTY DIRECTOR, CENTRAL INTELLIGENCE AGENCY, 1972-1976

General WALTERS. I have not prepared a specific statement. I would just like to outline what my connection with this whole problem was. I was a military attache in Paris. I had been in Vietnam.

I was transferred from being military attache in Brazil to military attache in France. And I felt that I would be ridiculous in France coming from the cocktail parties of Rio de Janeiro to the cocktail parties in Paris unless I went to Vietnam where the whole U.S. Army was involved. And in France, the whole French Army—in fact, not the whole French Army, but all the officers in the French Army. They could not send the conscripts to Vietnam, but the officers went many times and served many tours.

So, I persuaded the Army to let me go to Vietnam for a short time, which they did, in order to give me credibility to discuss these things with the French. This was a very difficult time for French-American relations. We were evacuating the bases in France at the request of General de Gaulle. And I felt there was a gold mine of French information on Vietnam, which there turned out to be in France.

The French made copies of everything and sent one copy to Paris, and it was available there if you wanted it. By checking the buying of French maps of Vietnam and Indochina, we could get some information of where the next offensive might be. They were rather imprudent, and would go and buy big batches of things from the French.

But anyway, Dr. Kissinger came in one day and told me he wanted me to act as a messenger in dealing with them. And I went with him on that first occasion to the apartment of the last French High Commissioner in Vietnam. Well, we met with him, and it was agreed that this channel would be opened and they would let us know when.

And thereafter, for a period of about 2 years, my job was to arrange meetings with them on the instructions of Dr. Kissinger or they would call me and say they wanted to see him. And some of the people at this table I had to smuggle into France at regular intervals because the Vietnamese had been very adamant that any publicity that was given to these negotiations, they would break them off at once. And smuggling Henry Kissinger into France was not an easy job, if I may say so, Mr. Chairman.

We arranged for a number of meetings. My job was to arrange the meeting and, generally, to translate. There was a rather curious set up. Most of them spoke French. They had all been to French high schools in Vietnam. But I would translate what Dr. Kissinger said into French. The Vietnamese interpreter would then translate it into Vietnamese. They would reply. And he, who spoke perfect English, would then translate back in English, and I was not involved in the Vietnamese-English process.

I did this until, I guess, about the end of March 1973, when I returned to the United States and became Deputy Director of Central Intelligence where I watched the situation in Vietnam, obviously, but my connection was not immediate with it. The director gener-

ally—and I served under four of them during this period. Mr. Helms, Dr. Schlesinger, Mr. Colby, and President Bush.

One of the things that struck me in dealing with the Vietnamese was their insistence that these prisoners were not prisoners, they were war criminals and should be handled as such. They refused to consider applying to Geneva Convention to them. I was interested in this question, and it was always one of the top questions in dealing with them.

I would say, our No. 1 priority was to stop the war without surrender. And the No. 2 priority was to get these prisoners back. The Vietnamese knew this, and used it for all it was worth.

I wrote a book some years ago, and I reported that Major Tho once looked at Dr. Kissinger and said: I don't know why I'm negotiating anything with you. I have just spent 6 hours with a very senior Member of the Senate, and your anti-war people will force you to give me what I want. And I would say that was one of Dr. Kissinger's great days. He said, Dr. Le Duc Tho, you are representative of one of the most tyrannical governments on earth. You know nothing about an opposition. You do not understand it. Leave discussions of an opposition to those who tolerate an opposition like we do. Le Duc Tho giggled embarrassedly, but he was obviously set back.

But this was their position. These people are not prisoners of war in the classical sense. They are war criminals who have committed crimes against the people. They knew how much we wanted to get these prisoners back, and this was one of their principle items of leverage. And we simply, in the state of changing public opinion of the United States, did not have that much leverage.

I can't remember how many times—I've been trying to go through my diaries and find out, but I must have met with them 25, 35, 40 times. There would sometimes be breaks for several months in negotiations. And then from one side or the other someone would say, well, let's talk again. And my job was to arrange that.

It was not easy to do. I had been instructed to inform no one of these negotiations and I, myself, had to decipher by one-time pad the messages from Dr. Kissinger. That is an extremely tedious job. It's also a very difficult and time consuming one, and I used to say that I was the highest paid code clerk in the U.S. defense establishment. I would generally get my instructions at 7 p.m. in the evening—at midnight. And I would spend the whole night deciphering the message and giving it to them in the morning.

This also developed into a relationship with the Chinese subsequently. And I, in my own mind, to keep them separate—to know who was this Oriental voice calling me—we decided with the Vietnamese it would be Andre, and with the Chinese it would be Jean. And this went on for an extremely long time.

I had no part and no information about what was going on. I got no bulletins or anything else other than were generally distributed to the attaches. But I had no particular intelligence on this.

However, as I said, I was interested. I checked with the French. The French were very opposed to what we were doing in Vietnam at that time. General de Gaulle was. And he did not want French opinion to know what an enormous percentage of the French pris-

oners known to have been captured at Dien Bien Phu never came back to France. It was a very large figure. It was somewhere around 30 or 40 percent—that they knew that the fortress surrendered, and they knew these men were not abandoned in the jungle or anything. They had been actually taken over.

There was a very interesting book that I read when I was there at that time called *The Priest And The Commissar* about the interrogation of this priest by a North Vietnamese prisoner of war interrogator that shed quite a lot of light on the way these people acted and behaved. It was very difficult for me to get out of the French the statistics which I have just mentioned. They had apparently been instructed not to make them public because they were afraid of the impact in France.

On of the things that attenuated a little bit was in the war in Vietnam the French could not send conscripts. They could send officers, but they could not send conscripts. And they send a lot of Foreign Legion soldiers. The French Foreign Legion, which is roughly 50 percent French in composition—it's not all foreign—sustained 11,000 dead in Vietnam. Which, population statistics taken into consideration, is roughly the same amount of casualties as we did per population.

They told me that they had a number of people who—some were French and some were not—who had married local girls and settled down there, and stayed, and did not wish to return. They didn't give me any statistics on that of how many there were, but there were some of those cases.

They said they were a very cold-blooded bunch of people, and they really believed that they killed the majority of the people who were taken at Dien Bien Phu. They had a lot of information about the Vietnamese. I got a lot of information about the early life of Le Duc Tho and Xuan Thuy, and the other people we were negotiating with. One of them had been in jail for stealing money from a drug-store he worked for and things like that that were of some use.

But I would say that I share what I think Mr. Lord and Mr. Rodman have said about the extraordinary patience under provocation of Henry Kissinger. Extraordinary—I said in the book I wrote I sometimes found that I disagreed with him, but when I tried to think who could do the job better, no name came immediately to mind. And he was terribly conscious of the pressure of public opinion, and the pressure of the Congress. One of the things he repeated to me all the time was, we have to try and achieve something before Congress gives the farm away.

And my own conviction was they wanted to use the prisoners simply as leverage to get what was tantamount to surrender in the end, and they didn't quite get that; not in that form. When I came back to the United States and became Deputy Director of Central Intelligence, obviously I followed this to some extent. It was in the time when Dr. Schlesinger was Deputy. I don't think that I can contribute much that he did not contribute about what he knew while Director of CIA.

I do know the questions that were asked, and I would be happy, Mr. Chairman, to try and answer the questions from any Senator that might wish to pose them.

Chairman KERRY. Thank you very much, General. Let me just make a couple of comments before I begin my questioning. And let me, by way of these comments, send a message from the committee and the chairman to Dr. Kissinger before he comes tomorrow.

I listened to a number of appropriate support statements and praiseworthy comments regarding Dr. Kissinger. I have not heard any Member of this committee say anything about Dr. Kissinger. I have not heard any Member of this committee or anyone in this committee to date publicly attack Dr. Kissinger. I do not think he needs any defense.

I have done enough reading in the last months that I wish I was enrolled at a university and was getting an advanced degree, because I have learned more about the negotiating process than I ever knew. And I think Dr. Kissinger worked under extraordinarily difficult circumstances. Certainly as one who was a vocal opponent of the war, I am not about to forget those times. Nor, I think, are several of my colleagues here who fought in the war, nor are we capable of forgetting those times. They were torturous for this country.

And there are many, many different reasons that Dr. Kissinger labored under difficult circumstances, not the least of which, I might add, was the election of 1968 and the platform on which he ran and the entire premise with which this Nation, as of 1968 and 1969, were approaching our involvement in Vietnam. So I recognize brilliance where there is brilliance, and there was brilliance in the course of those negotiations. There certainly was determination and perseverance.

That does not mean that it is perfect or without problems, or that there were not oversights, that there were not pressures succumbed or, or that there were not hurdles that even for somebody of the size of Dr. Kissinger in intellect and prowess, that they could not necessarily be overcome. And that is what this committee is trying to understand.

I think it was Ambassador Lord who said, you know, we cannot second guess every aspect of it. I personally am not here to revisit the early meetings with Le Duc Tho and to discuss whether we could have gotten out earlier or later or better or worse. I am here to talk about POW/MIA, and what we knew about that and how that issue figured into these negotiations, and perhaps some larger issues about the negotiations and how they may have impacted our ability to get the full accounting that we sought.

Now that is where the committee is coming from, and I am quite confident we can do that without a breakdown in our own dialog here. One of the great strengths of this country is that five distinguished public servants can sit here 20 years after the fact and answer these questions with candor, and this committee can ask them, I hope, with sensitivity.

I do not want this to be confrontational. It is not meant to be; no Member wants it to be. But 20 years later, folks, you know as well as I do that we are here because, for better or worse, the intentions we sought in 1973 have yet to be fulfilled. We do not have a full accounting.

And so we need to explain to our citizens who elect us and who we represent in the greatest democracy on the face of this planet.

We need to answer their questions, and that is why we are here and that is why you are here. So without further ado, let me try to shed light on that. And I hope you will feel I am not second guessing larger issues, many of which, incidentally, would make a fascinating debate, and it would be a wonderful forum and we could have an extraordinary time talking about that process.

But let us focus on POWs. Ambassador Lord, when Dr. Kissinger went to Hanoi in February 1973, it is my understanding that he brought with him information on discrepancy cases. Is that correct?

Ambassador LORD. That's correct.

Chairman KERRY. I gather that he took with him a group of the most troubling cases as we understood them then, where either Vietnamese propaganda or our own intelligence told us these people had been captives.

Ambassador LORD. That's correct.

Chairman KERRY. Now you stated to us, I gather, that he took along about 80 of these cases. Is that right?

Ambassador LORD. Again, on this issue, like so many others, my memory has been refreshed both by re-reading books and the depositions where I was shown documents. But that is now my recollection, yes.

Chairman KERRY. And these cases, to the best of your recollection, represented the strongest possibilities. They did not represent all of them, but they were the strongest; is that correct?

Ambassador LORD. That's right.

Chairman KERRY. Now Dr. Kissinger even showed photographs, I gather, of men who had been in captivity, and he demanded an explanation for that.

Ambassador LORD. Yes.

Chairman KERRY. And the Democratic Republic of Vietnam, so-called, said nothing, gave no response that was satisfactory. Is that accurate?

Ambassador LORD. Well I haven't reread the transcripts of the meetings completely, and I don't recall exactly. But obviously it was an unsatisfactory response. I don't exactly remember what they said. They may have said they had no information, or they may have said we've given you everything we know, something to that effect. But certainly it was unsatisfactory and not responsive.

Chairman KERRY. And, in fact, you left that meeting not really believing the Vietnamese. Is that correct?

Ambassador SULLIVAN, did you want to add something?

Ambassador SULLIVAN. Well, my recollection is that they accepted. They made all the oral statements that Win has just mentioned, but they accepted the dossiers and said that they would study them and be back to us on them.

Ambassador LORD. That sounds right, but I don't specifically recall.

Chairman KERRY. Did they get back to you on them?

Ambassador LORD. Not that I remember.

Ambassador SULLIVAN. No.

Chairman KERRY. Did you believe them when they said we do not have information on these people?

Ambassador LORD. Well, it is very hard to believe the North Vietnamese on anything, having dealt with them for several years, so we never took things on trust. The answer is we were quite confident they must have some information. Not necessarily that they had these people alive, but that they would know more about them than they had let us know. So we didn't trust them, no.

Chairman KERRY. And in point of fact, this was February, they did not respond even by June. Is that correct?

Ambassador LORD. Well as I made clear, I began to get away from the center of these issues some time after that February trip, so I can't speak precisely up to the June period. But my understanding is—others who were in these negotiations can be more authoritative. My understanding is they never responded satisfactorily.

Chairman KERRY. Now I recognize that most of you played roles that dealt with arriving at the agreement itself, though I think several of you had involvements thereafter. What I want to ask you, and I think you made an allusion to it in your opening comments, Mr. Ambassador, and you also said something about it in your deposition, and that is this question of this balancing that our Government went through. And to me that is central, I think, to helping us to understand this a little bit.

What is your understanding of the way in which our Government resolved the question of whether to reject the Vietnamese list because of the discrepancies, because we had this body of evidence, or whether to go ahead with the cease-fire and complete the withdrawals and so forth? Can you share with us your understanding of that tension and how it was resolved?

Ambassador LORD. Again, 20 years, you know, dulls precision in memory. But the best I can reconstruct it, the President faced the following agonizing choice. And I think reasonable people can disagree on whether he made the right one; I've made it clear I think he did, and I still believe that.

On the one hand you have an agreement. The world, and particularly the American public and Congress is ecstatic that this war is coming to an end, again on a basis better than most people thought was achievable at that point. We were about to get 591 men, I think.

The evidence on the discrepancies was strongly suggestive, very disturbing, that the North Vietnamese had not provided as big a list, particularly on Laos. But there was never—as you, yourself, mentioned a little while ago—there wasn't one specific case where we had 100 percent proof that they actually had that person alive at that point.

So the President was faced with this choice. We suspected the North Vietnamese generally, and beyond that we had the specific incidents of these lists and the discrepancies. Do you hold up the entire agreement, say stop the withdrawals, resume the bombing, in order to get better satisfaction on that?

Or do you go ahead knowing that if you tried to resume the bombing or stop the implementation, there would be a tremendous public outcry; that the Congress would probably not support this; that the 591, or wherever you were in that 2 month process of the people you were going to get back, would not be returned because

the agreement would have been torn up; more people might have been captured and killed.

And therefore based on all that, the President made what I thought was the right decision—not an easy one—that even though we strongly suspected we didn't have the full story, that others maybe were being left behind, we couldn't be sure. He went ahead with the agreement for the reasons I've stated, and then rigorously followed up continually on this question in the coming months.

That, to me, is the context as I recall it.

Chairman KERRY. Was there that vigorous followup in the following months?

Ambassador LORD. Well everyone has their own views on that; that's the purpose of your committee.

Chairman KERRY. What is your view? Do you think there was?

Ambassador LORD. My view is that there certainly was while I was directly involved. But that, again, was only a few weeks after the agreement was signed.

Chairman KERRY. You see the great problem here—and I know each and every one of you are smarter than us here and capable of seeing it without our explaining it to you. But the great problem here is that the balancing act was really in contradiction to our stated policy, and even to our promises to the American people. The stated policy was the fullest possible accounting; was it not?

Ambassador LORD. Yes.

Chairman KERRY. But a balancing act that says we cannot afford to start in order to get the fullest possible accounting is, in effect, throwing out the door the fullest possible accounting.

Ambassador LORD. I'm not sure I understand your point.

Chairman KERRY. Well your own description is the President had to weigh. He had to weigh whether to press the issue and stop the withdrawals because of the hue and cry of the country, or continue it and try and get it else ways. He weighed it; you say you stand with that judgment.

Ambassador LORD. Right.

Chairman KERRY. In effect, there is no great subsequent evidence of a major effort to make an issue of the fullest possible accounting. Most of the families will tell you that they have been struggling with that for 20 years; that is why we are here.

So, in effect, after the agreement is signed, after 591 came home, as you said, there was the euphoria about 591 and that seems to have eclipsed the question of however many others there were.

Ambassador LORD. Well I think you've correctly stated that there are two issues here. One, was the right decision made, and I've given my views on that. There's a separate question—having made the decision then was the other part of the equation fulfilled, namely a vigorous followup. And different people have different views. Clearly over the years since the record is sufficiently unsatisfactory for many people and you have a legitimate reason for enquiries and reasonable people can disagree.

Chairman KERRY. Well let me ask you this—

Ambassador LORD. I'm saying there was a vigorous effort while I was involved, but I was only there, as I say, really through the Hanoi trip. I don't recall being directly involved much after that.

Chairman KERRY. Before I cease my first round of questioning, you saw the evidence of those cases, did you not?

Ambassador LORD. Yes.

Chairman KERRY. The discrepancy cases?

Ambassador LORD. Right.

Chairman KERRY. There is no question in your mind, is there, that those represented legitimate questions of people who were held as a prisoner?

Ambassador LORD. Absolutely.

Chairman KERRY. So, in effect, when we got out in January and the prisoners started coming home and the President said all the prisoners are on their way home, you knew that that could not be accurate based on the information you had seen.

Ambassador LORD. Well, Secretary Laird said, I think one has to be careful in crafting of statements. And I think there are really two issues now you've identified. One, was a vigorous effort made. The other one I think you're now edging into, which I do find troubling, is whether the public announcements were precise or misleading.

Chairman KERRY. There is a third issue. That is whether or not the American people were ever told, whether the Congress was ever told we do not think they are giving us our people back. Because I personally know of no one in this country who supported the notion that we would not complete that task.

Ambassador LORD. When I say public accounting, I would include that kind of consideration. I do think, however, with respect to statements like the President's that was referred to this morning, or Mr. Shields' that I've heard talk about, one has to look at the full context even in those particular documents. I still haven't seen the full one from Mr. Shields, for example.

Chairman KERRY. We are going to try to do that, obviously. He is coming in.

Ambassador LORD. Because individual sentences may be poorly phrased or badly misleading, but I think the whole document should be looked at.

Chairman KERRY. I understand. In the case of the Shields statement—and I will cede after saying this—there were subsequent statements. And they were entered exchanges between himself and Governor Clements and some documents that he wrote that, in effect, put it all in a context which the committee has, in fact, made part of the record here.

But I appreciate your comments and I appreciate the candor of the statement. I do not want to imply at all, and I repeat again, you know there were difficulties then. This Nation was not about to go back to war, probably, absent some extraordinary information. The question is whether that might have motivated people to make a different judgment, but it was a very difficult time and we all understand that.

Ambassador LORD. Well let me just add, if I could, since you've been thoughtful enough to volunteer your statement, I will say something that my colleagues have said that I didn't in my opening remarks. That I fully respect the purpose of this inquiry. I think given the agony of the families in this Nation over this issue, we should continue to pursue it.

I personally feel that major ire should, of course, be directed at North Vietnam, which I think has been cynically using this issue. But you have every right to inquire, and I respect your motives and the spirit with which you're going about trying to understand whether we could have done a better job as a U.S. Government. So I would like to record that as well.

Chairman KERRY. Thank you very much, Mr. Ambassador. Senator Smith.

Vice Chairman SMITH. Mr. Lord, if I could just pick up on that point, because I think it goes to the heart of what we are trying to do. Actually, there were two policies, one right after the other, with the same data base. And I think this is why we are all here, and I appreciate your candor. And, again, it is not to cast blame or anything, it is just to try to see through this thing.

But, you know, the first policy was full accountability. Then there was a statement when the President said all the POWs are home. The policy then changed to everybody is home, all the POWs were home. But the data base, the intelligence information that you had, did not support that claim, as you have all said.

So what we are trying to do is—or not you, you all have not said that, but some have said it. What we are trying to do is see through that to try to understand. And I think the American people and certainly the families are owed an explanation as to why that was said and what the reasoning behind that was, and hopefully we will get to that.

Ambassador Sullivan, a quick—I have got a lot of questions here, and I am trying to jump to them as quickly as I can with different people. But Ambassador Sullivan, you were in Hanoi during the 3, 3½ hour meeting on those discrepancy cases that Senator Kerry just asked about. There were 20—I think if I understand it, they did not bring 80 but they bought 20 of the 80 or something of that nature, and they were supposed to go into those 20 in detail.

Was that done, or were the cases just passed over to the Vietnamese? How did that process work?

Ambassador SULLIVAN.: I'm not that every one of them was gone into, Senator, but I can tell you it was more than just passing them over. For example, I do recall that one of the cases involved, I believe, a Navy Lieutenant Commander, Navy pilot, who had been shot down and had been photographed and used in a North Vietnamese propaganda photo.

And Dr. Kissinger pulled that out and we discussed this and used it as a sort of serious discrepancy which existed, and therefore merited more study. And we went through, I would say, a half a dozen of them, but I don't think all of them.

Vice Chairman SMITH. You went right into the nitty-gritty.

Ambassador SULLIVAN. Into the folders, and then at the point when they finally agreed, after having made all these disclaimers, that they would accept the dossiers and study them, then Dr. Kissinger handed them the whole pile.

Now Winston Lord was there and Peter Rodman was there, so maybe they have different recollections or additional recollections.

Vice Chairman SMITH. No, I am sure in general you are correct, and I do not mean to be that specific on it. But I am looking at a

February 6, 1973 memorandum from Rear Admiral Daniel J. Murphy to the Secretary of Defense in which it says:

We are providing Ambassador Sullivan with 20 folders of men who we have reasonably hard information on, that were taken prisoner but did not show up on any DRV or PRG lists. These will be used as examples by Ambassador Sullivan while in Hanoi to substantiate the U.S. claim that the lists provided are not correct.

And I guess what—just to editorialize on that point, when that kind of data comes into the process and the statement is still made that all the POWs are accounted for, these are the kinds of questions that, to me, do not make sense. I mean somebody has to answer to that, and I am not saying that it is you.

I mean you took the data in there and you know that you did not get a satisfactory explanation. Now we did get some explanation in years later on the fact that some of these people died, but we did not get explanations at that time.

Ambassador SULLIVAN. Senator, my own experience immediately after that became somewhat turbulent and my recollection of it is turbulent. I was nominated to be Ambassador to the Philippines in either late February or early March, and I removed myself from the Indochina process and literally physically went to the Philippines desk.

However, then later when the cease-fire fell apart I was called back in and I went out to Saigon. And then I discovered today, on reading some papers, that I was in Paris a couple of times that I didn't realize I was there. So it was a turbulent period and I wasn't following in that time. And certainly up until now, I had never been aware of the statement that has been quoted here so much today, by President Nixon, that all our POWs were home. I was not aware that that had been made. Or if I was aware, I don't have any memory of it.

Vice Chairman SMITH. General Walters, let me jump to you. In 1976, before the Montgomery Commission—Committee, excuse me, in Congress, the Montgomery Committee; there was a commission, but there was also a committee—you testified on behalf of then CIA director George Bush that there was no hard evidence. In fact, let me just read what you said:

I would simply like to say that I regret that I cannot tell you that there is hard evidence that there are Americans alive in that area, meaning Laos. I would be very happy if I could. We can only speculate, but hard evidence there is not.

And that you stated on the record. But in the documents that you submitted to the committee, which is in the report—this is what the document says that you submitted, that you submitted as an addendum to your comments, and I am excerpting one part here:

DIA reviewed its files on MIA cases and estimated they contained about 300 reports of sightings of American POWs alive in Laos. The central reference service of CIA produced a listing of intelligence reports which concerned POWs in Laos. From the titles it is estimated that approximately 150 out of the 259 listed reports mentioned sightings of American POWs in Laos. The same reports are probably included in the DIA collection of some 300 reports.

I cannot understand the diversity, the difference, the dichotomy, in those two statements.

General WALTERS. Well I find it difficult also, Senator, since we were all working from the same data base. The idea that the CIA had its statistics and DIA had theirs and the services had theirs is not true. We all worked on the basis of the same data bank.

When I was going up to testify before the Montgomery Committee, I asked what the facts were and this is what I was told the facts were. However, understanding the difficulty of operating intelligence in a country like Laos, in any Communist country where you've got to have a local passport to move around from places, the idea that we could easily establish agents there and have them operate for us, it just isn't that easy. It's a great deal more difficult. This is a totally alien environment and culture.

I believe what I said was that in Laos they did not have them in organized places like the Vietnamese did. They moved them around from place to place, and you might have two or three people sighted. I don't think the people that sighted them knew their names.

Vice Chairman SMITH. The point is it was evidence. And we have been debating this thing ad nauseam for 20 years about evidence; I say there is evidence. Frankly, I will be very blunt about it, I think the evidence you had in 1973. And you submitted it to the policy people and for whatever reason, which we are trying to find out, that documentation, which is referenced here in the addendum that you presented, was not listened to.

I mean you are talking here about following prisoners around. The previous witness has testified about letters coming from POWs who were alive. I mean the point I am trying to make is I do not understand why, with that kind of documentation out there within the intelligence community, and both Dr. Schlesinger and Secretary Laird made the—

Chairman KERRY. Can I just ask, for my edification, what is the documentation?

Vice Chairman SMITH. Pardon me?

Chairman KERRY. I am just trying to follow the conversation. You are talking about the documentation that is out there; I just wanted to reference it.

Vice Chairman SMITH. Well the documentation I just read, Mr. Chairman, right here. This is a document that was submitted in the DIA—I just read—

Chairman KERRY. Referencing the live sighting reports.

Vice Chairman SMITH. No, it is not referencing anything. It says: DIA reviewed its files on MIA cases and estimated they contained 300 reports of sightings of American POWs alive in Laos.

Chairman KERRY. Live sighting reports, right.

Vice Chairman SMITH. Well, they said—no, they are not live sighting reports. DIA reviewed its files and estimated they contained about 300 reports of sightings of American POWs alive in Laos. Whether they are live sighting reports from somebody in Southeast Asia or whether that is DIA intelligence, we do not know, it does not say. But it says that the central reference service of CIA produced a listing of intelligence reports which concerned POWs in Laos, from the titles.

I am not trying to pass judgment on the information. I am just trying to say to you that the documentation that you submitted does not match the statement that you made to the committee. But what I am trying to get at is regardless of how we look at it now 20 years later, you cannot—it is very difficult to find anybody in the intelligence community or the DOD who believed that that intelligence, a good bit of it anyway, was not valid.

Mr. Schlesinger said, point blank, it was excellent, was the term he used. It was outstanding, it was very good stuff, and most of the people that I have talked to say the same thing. And all I am saying to you is—over an evolutionary period of time I could say—20 years later you could say it was not that good, but that is not what happened; it happened over a week.

This documentation, as recently as March 23, 1973 was good, and then on March 29, 1973 when Nixon said everybody is home, it was no good. And that just does not make sense, and nobody has answered that question for me.

General WALTERS. If I may, Senator, different intelligence services give different evaluation and analysis of reports. You may have had some reports that were acceptable to one of the intelligence agencies as sound evidence, and to the other they weren't.

And I think a discrepancy arises there. The idea that, I think, anybody would deliberately try to diminish the known number of people in captivity, I just have never met anybody in the years I have been in the Government who would participate in anything like that.

Vice Chairman SMITH. I have not either. I am not saying anybody is diminishing it. I am just saying that the information was passed on to the policy folks, all the way up, from the various intelligence collecting areas, including CIA and DIA and the other parts of DOD, that is all I am saying.

And basically—and there are still references. I mean I just used one document; there are numerous references, my goodness, EC-37, Emmett Kaye. There are sightings referenced. There is as reference to the accords signed between the Pathet Lao and the Royal Lao to American POWs.

I mean there are numerous references long after the Paris Peace Accords are signed to American POWs in Laos, based on intelligence. And all I am saying is that that information did not stay in the system as far as the comments made by President Nixon are concerned, otherwise he would not have said it. Either it was wrong and he knew it was wrong, or it was right and he ignored it, or he did not know. I mean there are three options.

General WALTERS. As to discrepancies, Senator, I think you'll find that most of the studies that go forward to the National Security Council have footnotes by the various intelligence services, sometimes disagreeing with one another. That is not an unusual fact. Very often one of the services would disagree with the evidence presented by the other, and would so insert a footnote—

Vice Chairman SMITH. My time is up.

General WALTERS [continuing]. In the study going to the policy-makers.

Vice Chairman SMITH. Yes, my time has expired. I do not mean to debate it with you. I am just saying that the terms that were

used in the depositions that I read from Laird, from Dr. Schlesinger and others, were that he was characterizing the comments made by various people in the intelligence collecting areas as anger, frustration, outrage. These were the terms that were used by those who were deposed for this committee in some of their testimony in terms of why this information was not listened to; that is all I am saying.

General WALTERS. I presume that whatever I said before the Montgomery Committee was reported to them. One of them was my superior. I found no discrepancy with him; he did not challenge anything I had said.

Chairman KERRY. This is clearly going to be one of the points the committee is going to have to deliberate on and debate, and we are going to have to sort it out as the next months go on. I listened very carefully to the summary of your statement. And I am not going to go back into it, but I heard you say to the Montgomery Commission in your quote we do not have any hard evidence.

Now there is going to be a debate on this committee as to whether—

General WALTERS. What is hard?

Chairman KERRY. Well, there is going to be a debate, obviously, as to whether or not a live sighting report is hard evidence, and that is something we are going to reserve for later, but that will obviously be a bone of contention.

Senator Daschle.

Senator DASCHLE. Thank you, Mr. Chairman. I would like to direct my questions to Mr. Aldrich, but I would like at the very beginning to offer an invitation to any other member of the panel who may wish to elaborate on the questions to just jump in.

Mr. Aldrich, on January 24, 1973 Dr. Kissinger stated at his press conference that there were no secret understandings in the sense of secret commitments. He said that there were statements by each side of its intentions or interpretations of the agreement on which the other side might or might not choose to rely. How does that characterization fit your understanding of the force and effect of the secret agreements?

Mr. ALDRICH. My view of it, Senator, is that that was probably an accurate description of the majority of the items on which there were—which were composed what was called the secret—

Chairman KERRY. Would you pull the mike a little bit closer, please.

Mr. ALDRICH. It is probably an accurate statement of most of the secret understandings, the various individual ones. I do not agree that it would be an accurate statement of the North Vietnamese undertaking with respect to release of prisoners in Laos. I think that clearly was a commitment, and I suppose all I can say is Dr. Kissinger sometimes speaks without first getting advise of counsel.

Senator DASCHLE. Well obviously he had the opportunity to get that advice after the statement was made. You were there; others were there. To your recollection, did somebody pursue that matter? That is a very important public pronouncement, probably equal in consequence, in many respects, to the pronouncement of the President a couple of months later.

What advice, what counsel, did you and others give him with regard to that statement, with regard to the need for clarification once it was made?

Mr. ALDRICH. I think what we did as a follow up was what we did in the spring in our discussions in Paris with Le Duc Tho, where we proceeded beyond that understanding.

Senator DASCHLE. I am sorry, you said in your discussions with Le Duc Tho?

Mr. ALDRICH. Yes.

Senator DASCHLE. I may have misstated my question. What I am asking is this was a public statement, really, to the American people as much as it was to anybody else. There was an understanding based upon that statement about these agreements and commitments; what clarification, what advice was there with regard to that understanding on the part of those who received it once it was made?

Mr. ALDRICH. Well I don't know that I had any further communication with Dr. Kissinger for some time. I did in February produce an interpretive memo, which I believe is in the committee's records, in which I listed a number of paragraphs as confidential or secret because they were recording the secret understandings. I had to do that so that the bureaucracy in the Government would understand what the various commitments were. But I didn't go back and tell him he should have another press conference and state it differently.

Senator DASCHLE. Mr. Rodman or Mr. Lord, you were on the scene, did you make any effort to do so?

Mr. RODMAN. The substance of this, though, was not secret. It was our public position that the other side was committed to produce lists and release our prisoners throughout Indochina. So the fact that the North Vietnamese had said this to us privately, that they would work to this end—that's a question of the form of the communication. The fact is that was our public position, that we were expecting this and holding them accountable. That's my recollection.

Senator DASCHLE. Mr. Rodman, that was not the issue. Dr. Kissinger announced on the 24th that there were no secret agreements, and that was left unchallenged. No one came forth on his staff, in the administration, by the President, to clarify a fundamental mistruth.

Mr. RODMAN. I'm not sure I understand why this had the consequences that you said a moment ago it had. I mean I think the so-called understandings either were technical, as was said, or if they had substance, this was substance that was publicly known and not a secret.

Senator DASCHLE. Oh, I challenge that.

Mr. RODMAN. I think he was saying that there was nothing, no private communication with the North Vietnamese that was in any way inconsistent with or that added significantly to what we had disclosed about the substance of this whole agreement.

Senator DASCHLE. The secret agreements were not inconsistent with publicly stated policy.

Mr. RODMAN. Our position was we were expecting to get our prisoners released throughout Indochina—it covered Laos as well. That was public, I believe.

Senator DASCHLE. As Senator Kerry has indicated, we do not want to be accusatory or get into a debate here, but I think we could debate that point at length.

Let me just ask, because I know we are limited on time, with regard to the protocol—and I go back again to Mr. Aldrich because he spent a good deal of his time articulating his interpretation of the protocol. Do you know why the agreement on MIAs in article 8(b) was not covered either in the secret agreement or the protocol as dealing with the governments of Laos and Cambodia?

Mr. ALDRICH. In January, you mean, because it was covered in June.

Senator DASCHLE. That is right, yes.

Mr. ALDRICH. I do not know. As I said at the outset, the agreement itself appears, by and large, to be limited to Vietnam, although it never—in article 8(b) it doesn't really say it's limited to Vietnam.

The understanding which had been negotiated, as had the agreement text before I was involved in the negotiation—the understanding with respect to release of prisoners in Laos spoke for itself. I made the point in my interpretative memo in February that the one thing that we were missing here, in terms of a commitment with respect to prisoners in Laos, was our own involvement in the accounting.

In other words the Lao cease-fire agreement between the Lao parties provided for an accounting, but we weren't a party to it and we didn't have a mechanism such as the four party joint military team to be directly involved in the accounting. And if we felt that was important, we would have to go and negotiate something, presumably with the Lao. That was not done, obviously.

Ambassador LORD. If I could add something, Senator.

Senator DASCHLE. Yes.

Ambassador LORD. This touches on the general problem we had with Laos and Cambodia in negotiating this agreement. Hanoi wanted to maintain the fiction that it had no control over its friends in those other two countries, that they were sovereign governments. In retrospect, with respect to Cambodia that turned out to be largely true. In fact, Vietnam invaded Cambodia a few years later, so they clearly didn't have control over the Khmer Rouge and some of the other elements.

But they certainly had large control in Laos, so our dilemma was to try to make this agreement as airtight as we could throughout Indochina, including on the POW/MIA question. And we came up with, frankly, compromises that were not fully satisfactory, of unilateral statements and so on.

Senator DASCHLE. I am out of time, Ambassador Lord, but I must tell you that is—I cannot imagine that 20 years after the fact you could argue that this was an airtight attempt. I mean how could we sign an agreement.

Ambassador LORD. I didn't make myself clear. We strived over many months and years to get as good an agreement for the whole region as possible. We had to compromise in the course of the nego-

tiations. We didn't get everything we wanted, including the Laos and Cambodian dimensions which were clearly not as good as we would have liked. That's what I meant.

No, the final agreement was certainly not airtight. I agree with you, absolutely.

Senator DASCHLE: Well what rationale did you have amongst the negotiators with regard to the justification for signing an agreement that does not include the MIAs in Laos and Cambodia? How could we rationalize that, knowing that they were there?

Mr. RODMAN: Well, we thought we had a commitment from the North Vietnamese in two or three different respects with respect to Laos. One was that we did expect to get a list, through their good offices, of the prisoners in Laos. They promised to try to help us get a cease-fire in Laos within a short period of time. So we were dealing with the party which clearly did call the shots to a great extent, and they were making some commitments to us which were not as formal as other commitments they made.

But I have to say that, with the North Vietnamese, the formality with which they made a promise did not determine whether they were going to keep it or not. I mean can say—tongue in cheek—that they kept their oral commitments as faithfully as they kept their written commitments.

And the fact that we got an indirect promise on Laos did not mean that they would or would not carry it out. Some of the informal commitments and understandings they did keep, and some of the formal, written promises they violated. So we thought we were getting some kind of assurance from them, that they might or might not keep, depending on their assessment of the balance of forces and so forth.

We thought it was far better than nothing. As Winston said, we are the ones who for many years had pressed for Indochina-wide settlements. And we got a few commitments from them on cease-fire, on prisoners, and, in fact, in the Paris Agreement there's also the commitment to withdraw from Laos and Cambodia.

So, given that this was a Vietnam agreement, we thought we had achieved something of some value with respect to Laos and Cambodia.

Senator DASCHLE: Well I am way over time, and I thank my colleagues for their deference.

Chairman KERRY: Well that is a good line of questioning and we appreciate the answers.

Senator Kerrey.

Senator KERREY: Thank you, Mr. Chairman. I would actually like to pursue a line of questioning, first, with Ambassador Sullivan and Mr. Aldrich, and then I am going to follow with some discussions with Mr. Walters and Mr. Lord about a very specific meeting that occurred on August 16, 1971.

In both cases what I am going to supply you with are documents that are still, to a certain extent, classified. The second one is a report from the National Security Advisor to the President; it is still classified. The first one, there are some redacted versions.

We will assume—all I am going to do is reference both of them, and I would like—just so the two of you can refresh your memory of that meeting, I would like to supply you with the documents so

you can look at it while I am asking Ambassador Sullivan and Mr. Aldrich some questions.

The line of questioning that I have got first of all, Ambassador Sullivan, involves the premise of our negotiating that said that one, we could trust the North Vietnamese to simply supply us with a list on the say that we sign the agreement, and that second, the four-party military commission had some chance of success at all. Those, to my mind, are both very crucial on the one hand to getting a full accounting of POWs, and on the other to making sure that the South Vietnamese themselves have the opportunity to survive, given the fact that we in the end allowed the North Vietnamese to keep their troops in place in the South.

Tell me, I know that you were on General MacArthur's staff during the occupation of Japan. You were there sort of at the beginning of that. You have both had some, I believe, experience dealing with in particular not just new democracies but also you have had some experience dealing with unaccountable Communist governments. Do you think it was reasonable to expect that the North Vietnamese would supply a list that was going to work? Did you feel like there was enough—did you give any thought at all to questioning as to whether or not we were going to find ourselves with a moment after the signing where we were not going to be able to get them to follow through?

Ambassador SULLIVAN: Well, Senator, you have to remember that the largest number of prisoners in Indochina were North Vietnamese that were held in the South. There were over 20,000, as I recall.

Senator KERREY: 26,000.

Ambassador SULLIVAN: 26,000. And the feature that your question does not include is the fact that there was going to be a rationed return of their prisoners as they returned our prisoners. So it wasn't only the question of withdrawal of troops that would be a compelling point for them to return all of our prisoners, but rather the fact that they would get theirs back only if we felt satisfied that ours were coming back.

Senator KERREY: I guess specifically what I am pointing to, and Mr. Aldrich, you can jump in as well if you have got an opinion on it, but here we are dealing with a government, the Democratic Revolutionary—

Ambassador SULLIVAN: Let me interrupt and say all of us shared the same view. We had no confidence. We had been—I personally had been involved for—at that stage—for 11 years.

Senator KERREY: But I guess worse than that, it seems to me, we are dealing—this government not only did not recognize the 1962 Geneva accords, and by the way, it seems odd that we should even reference that all parties will agree to abide by the 1962 Geneva accords if one of the signatories was somebody that was not abiding already by them. This government regarded our prisoners as political criminals.

Ambassador SULLIVAN: That's right.

Senator KERREY: And so thus they said we are not going to allow the International Committee of the Red Cross to come and do inspections. They regarded our prisoners as political criminals. I just—the question is whether or not in any of the private discus-

sions some thought was given to keeping the POW issue as a preliminary condition as opposed to mixing it in with all the other parts of agreement.

Ambassador SULLIVAN. I'm not sure what you mean by keeping it as a preliminary condition.

Senator KERREY. Well, saying, as Secretary had recommended, saying that once you have released our prisoners, then we can either negotiate or that this will occur at some point prior—

Ambassador SULLIVAN. With all due respect to Mel Laird, we could not have had them release our prisoners without our having to release their prisoners. So this is—we did not win this war, Senator Kerrey, as you know. And therefore, the leverage that we had at that time and in that circumstance consisted basically of two hypothetical ones.

Senator KERREY. It was described by the President of the United States on March 20, as a victory. You may say we did not win the war, but on March 20, the President said it was a victory. So the representation in the negotiation may—

Ambassador SULLIVAN. We did not win the war, Senator Kerrey. Both of you Kerreys know that and I know that.

Vice Chairman SMITH. Smith knows it, too.

Ambassador SULLIVAN. And you, too. Anyway, the point is the only thing we had as leverage at that time—two things. One was a resumption or threat of resumption of the B-52 attacks and the mining of the harbors. That really did get those boys' attention because once we cut off the sea lanes to the Soviet Union—and at that stage we had made our openings with China and the Chinese were not letting anything across to them—they had fired their last SAM's they had at the B-52s. So the idea of putting mines back in those harbors and threatening the B-52 raids was something that was compelling.

The other thing—that was the stick. The other thing was a carrot. And we've described here—Winston Lord has—the prospect that we might be willing to pay some money or to make some funds available for reconstruction, binding up the wounds of war, as we call it.

So until an agreement was actually signed, we did not have the leverage to work on. But again, getting back to this question exclusively of POWs, they had numerically, at least, far more interest in getting POWs back than we do. We had probably much more moral interest because they were pretty casual about their people. But it was a question of a ratio of perhaps something under 1,000 on our side to 26,000 on their side.

So I don't quite see how you could calculate that there would be a negotiating context, sir.

Senator KERREY. Not only that, but I must say at one point Dr. Kissinger, himself, expressed some surprise at the number of prisoners that were going to be released in the South and some misgivings about releasing that amount of individuals into the South given the fact that the North Vietnamese were going to be allowed to maintain there—

Ambassador SULLIVAN. Well, those were the Viet Cong, the ones that would go back into the local.

Senator KERREY. Let me stick on this idea. Understand it seems to me the evidence is pretty clear the North Vietnamese Government was treating our prisoners not as prisoners but as criminals.

Ambassador SULLIVAN. That's why George Aldrich wrote in the sections dealing with the Geneva Convention and the need.

Senator KERREY. I do not know how we could possibly—

Ambassador SULLIVAN. Well, we did eventually get in Red Cross after the signature and before all were released.

Senator KERREY. Let me pursue the earlier line, because my light is flashing over here. What I want to do is talk about the meeting that I passed the document out to that is August 16, 1971, where it appears that an agreement is reached as to the release of the lists, that both sides were going to provide each other with a list of prisoners at the signing of the agreement.

In addition, the idea of economic assistance to North Vietnam was also discussed at that meeting on the 16th with Le Duc Tho. You were both there. Dr. Kissinger was there, as well.

The question that I have got is were you aware that the Department of Defense was arguing that this should not be done? And it seems to me that we had heard Secretary Laird very strongly say that he was asking Dr. Kissinger to raise this with the North Vietnamese, this idea of getting a release ahead of time, that he was arguing it in 1971, he was arguing it in 1972, and it appears to me the deal was done.

It appears to me that both in the document itself and Dr. Kissinger's communication to President Nixon, that that was done, that we had agreed on the August 16, 1971 that there was only, in regard to POW, going to be an exchange of lists at the moment that we all signed the agreement. And the question that I have got is were you aware that the Secretary of Defense and others in the defense agencies were arguing that we should get a preliminary release, and if so, why was it not more forcefully presented at this meeting?

Ambassador LORD. Well, again, it was 20 years ago, Senator, but first, I do not recall being aware of that position, but I might well have been at the time. I just want to be very precise on that. I do know at early stages of the negotiation, and I don't remember the sequence, we, of course, pushed for even a better outcome on POWs than we got, namely, to have them released before withdrawals were completed. So in the course of the negotiation you sometimes have to give in on your position. And that obviously would have been even better than getting lists ahead of time.

So we did whittle down our positions, no question about it. I didn't recall the precise date and meeting until I read this document. As I say, I do not recall others pressing us to get the lists ahead of time, but it would be a natural objective that you would like to have and certainly better than getting it the day of the agreement.

Senator KERREY. One additional follow on that, and I think my time may be up. I do not want to drag too far over the line, but did Dr. Kissinger in these meetings—it is not in any discussion in the minutes there—but was there a discussion of the possibility of taking the offer that the North Vietnamese had tabled that appeared to be a breakthrough offer, of taking—of saying thank you

very much. That is an interesting proposal. We are going to take it back to Washington, DC, and we are going to discuss it in Washington before we proceed to a negotiation because it appears that the offer was very exciting and that there was a considerable amount of detailed negotiation that happened. Now, I am talking about 1972, not 1971.

Ambassador SULLIVAN. Oh, I see.

Senator KERREY. But in 1972, of taking that offer back to Washington as opposed to staying there all through October and negotiating the details of the agreement. Was there some discussion and consideration given that there were some other concerns raised of taking it back to Washington and delaying the negotiations?

Ambassador LORD. Again, my colleagues may remember better than I do. I don't recall that being discussed—I think the feeling was there was a breakthrough, as of October 8, that the North Vietnamese were now making concessions because they knew that Nixon was going to get reelected in our Government, and they figured their best leverage was before the election. They were scared of Nixon after the election. So the feeling on our side was to move ahead as quickly as possible with those negotiations when our leverage was greatest.

We may well have discussed hey, let's pause here. Let's go back and more carefully vet it with Washington. I just don't recall whether we did or not. But others may.

Do you remember, Peter?

Mr. RODMAN. That was the choice we faced, and I think we were conscious of this choice. We could have said "hold it right there, we'll go back and consult with the South Vietnamese," and so forth. Dr. Kissinger will describe it tomorrow as he saw it, but I think his view was that it was smarter to pin down the North Vietnamese on all the concessions they were about to make and were making, and nail them down, and then go sell it to the South Vietnamese, and try to do it that way.

If he had stopped that negotiation and said, "Let's not finish it, let's go around, the South Vietnamese would still have probably thrown a monkey wrench into it and the thing would have unraveled even earlier than it did, in a situation where we had the North Vietnamese pinned down to less of a complete agreement.

So it was a conscious decision to try to squeeze as much as we could out of the North Vietnamese in October. In fact, one of the things on which they did cave in in the middle of October was their attempt to link our POWs to the South Vietnamese detainees.

So we were squeezing things out of them.

Senator KERREY. Which you constantly resisted, correct?

Mr. RODMAN. Exactly. We would object to that totally, and they kept reopening it. But I believe that this is the choice that Dr. Kissinger considered.

Senator KERREY. Well, let us assume that Secretary Laird had communicated, and very forcefully, his desire. To have the POWs released prior to the signing, let's assume that that is the case and that Dr. Kissinger just did not discuss it with you during either the preliminaries or the breaks that occurred in Paris.

Assuming that that is the case, it seems to me—and also, I must say, assuming one of the things that Ambassador Sullivan dis-

cussed in your deposition was the notion that compared to the staff and compared to the support that the North Vietnamese had, you all had a relatively small staff and relatively small amount of support compared to what they had in place, given all that at stake, it seems to me that there would have been a very strong temptation if the POWs were the sine qua non as you have indicated, to say let's give this one last shot.

You know, as you have stated, that you are heading into the election. This appeared to be the tail end of the negotiation. If it was so important, it seems to me that one last consideration, one last attempt would have been made to change it. But it does not seem to be. It seems to me to be a given that in August 16, 1971, that that case was closed, and that when Secretary Laird came to Dr. Kissinger and said we need to make sure we got those POWs released prior to the signing of the agreement, it seems to me that Dr. Kissinger was not terribly forthcoming to Secretary Laird, and it seems to me that he was saying that deal's already cut, I am just not going to inform you of it.

Ambassador LORD. Excuse me. Are you referring to trying to get POWs released before the agreement or getting lists before the agreement?

Senator KERREY. Getting the list before the agreement so you could compare—the idea would be to compare the lists and make some detailed man-by-man attempt to determine whether or not their list tracked with our list. That was not done. And it was agreed—it was agreed in 1971 that it would not be done. And all of the testimony that we heard earlier from Secretary Laird saying I was at Henry Kissinger all the time trying to get him to make sure it did not happen, that deal was cut in 1971. There was no effort, apparently, from the meeting in 1972, no effort to say to the North Vietnamese, this is unacceptable. It was accepted as a condition because it had been prenegotiated in 1971.

Ambassador LORD. All I can say is that in October you faced the choice of where do you press for further concessions from the North Vietnamese. I can't reconstruct exactly what happened. I do know our key problem at that point was separating the military from the political issues, and that's where Hanoi caved in completely, and we considered that a major breakthrough.

Chairman KERRY. When you say separating it from the political issue, you are referring essentially to the requirement to overthrow the Thieu regime.

Ambassador LORD. That's right.

Chairman KERRY. When they separated the Thieu regime, but they did not separate all—well, you were going to separate economic from political?

Ambassador LORD. Well, the point is this: The reason October 8 was a breakthrough was that for the first time definitively they dropped their demand which we resisted for 3 years to overthrow Thieu and install a coalition government. No one felt we could achieve that in this country or very few people did, and we thought Thieu would find that so attractive that he would buy the rest of the agreement, a very tragic miscalculation.

The economic aspect was part of it, no question about that.

Chairman KERRY. He did not find very much attractive in the entire—

Ambassador LORD. No.

Chairman KERRY. Senator Grassley.

Senator GRASSLEY. Thank you, Mr. Chairman.

General WALTERS, what, in your view, was the main priority of the North Vietnamese during the negotiations?

General WALTERS. The conquest of South Vietnam and the evacuation of all U.S. forces.

Senator GRASSLEY. Where would reparations fit into that goal of theirs?

General WALTERS. I'm not sure where reparations would fit into that goal of theirs, but I believe the government was feeling such pressure from public opinion that they had to make at least some kind of an effort to cut something that would be less than total abandonment.

Senator GRASSLEY. Did you put reparations on a high list in your deposition to us? I thought on page 20 that you thought the reparations would be high up there.

General WALTERS. It was very high on their list. I'm not sure how high it was on our list. I don't know where I said this. They kept raising it.

Senator GRASSLEY. Then maybe you misunderstood my question. My question was in your view, what was the main priority of the North Vietnamese during the negotiations?

General WALTERS. Well, I would say, to obtain U.S. withdrawal from South Vietnam, to occupy South Vietnam, and do what happened in the end.

Ambassador SULLIVAN. If I may interject, Senator Grassley, it's very clear that the monetary reward for observing the treaty, that is to say the funds for the rebuilding and restructuring of Vietnam, must have been lower than their desire to do as Dick said, to conquer the South, because when they broke the agreement and invaded the South, they forewent any option, any possibility, of getting the monetary award. So clearly, I think I would agree with Dick's priority.

General WALTERS. To be honest, Senator, I was a soldier doing what I was told. I was unenthusiastic about these negotiations because I didn't believe the North Vietnamese would carry out any undertakings that they undertook. But I was not in the policy formulation loop.

Senator GRASSLEY. General Walters, do you ever recall it being discussed that we should exchange lists prior to the signing of any agreement?

General WALTERS. Yes, I believe there was a discussion to that, as I say, going back 20 years, I've heard it talked about so much here that it's difficult for me to separate in my memory what I may have heard here this morning and what I heard at that time. But it seems to me that was discussed and they, of course, knew this is one of the principal leverages they had with us. They knew that our desire to get those prisoners of war back was inordinate compared to theirs. They didn't care whether they got theirs back or not, so I think they would have agreed to almost anything, but

what I suspected is that they wouldn't have carried out the agreement and my suspicions were not totally ill-founded.

Senator GRASSLEY. When we were told that we had gotten all of the POWs home, at that point, did you believe that we had left anybody behind?

General WALTERS. The question of leaving anybody behind is a difficult one to answer. I'm not sure what is understood by that. In the Korean War, I think most people seem to have forgotten 32 Americans elected of their own free will to stay behind in North Korea. Now whether there were some cases like that in South Vietnam or not, I don't know. I know that in the case of the French there were a number of cases like that, a number of people who were Communist and so forth in the French army did elect to stay behind, but as I said in answer to Senator Smith, I did not have any hard evidence on this. And by hard evidence I mean something that was incontrovertible.

You know, there is a letter system for what the validity of these informations is and I was told, I don't know whether this was a fact or not, that every single person who claimed to have seen an American prisoner in captivity or in Vietnam, and is not admissible in court I know, however, had failed the lie-detector test when they were asked had they really seen them.

Senator GRASSLEY. What happened in your view to those who we expected back who did not come back?

General WALTERS. I think they killed them. They're that kind of people.

Senator GRASSLEY. OK.

Vice Chairman SMITH. When did they kill them?

General WALTERS. Well, what is difficult for me to understand, Senator, is how anybody could think that even a short time after all these things were done and they've conquered the whole country and everything else, how could they justify suddenly producing prisoners and saying, well, we swore to you we gave everybody we had and now there's nobody here. Now, yes, we did. How do they produce those prisoners? Those prisoners would be a colossal embarrassment to them.

When I was testifying before the Montgomery Committee, I was asked whether I wasn't, you know, using secrecy to cover up. I said, if I could dissuade the grief and anxiety of families by lifting the secrecy thing, I would lift it, but I did not have enough justification to make me believe that we could lift anything and find anything more serious out about these people than we already had. I dealt with the Chinese and the Soviets in a long career of public service. Nobody's like the Vietnamese.

I understand what Hitler said when he said after negotiating with Franco, he said, I would rather have a tooth pulled without an anesthetic than negotiate with that man again and that's the way I feel about the North Vietnamese.

Senator GRASSLEY. In your opening comment you made some reference to about—

General WALTERS. And still do.

Senator GRASSLEY. You made some reference to the French experience in Indochina. Go over that just a little bit for me and tell me what you learned and from whom did you learn it?

General WALTERS. You are putting me in a rather difficult situation, Senator. This was given to me in great confidence by a French official.

Senator GRASSLEY. OK, I do not expect you to violate any confidence.

General WALTERS. You know, I don't want to identify him. He was a very senior in the French army, a very senior official in the French army.

Senator GRASSLEY. Did he have some identification that you refer to on anything?

General WALTERS. Did he have some identification? He told me that when the French summed up the people they knew they had lost alive at Dien Bien Phu who were still alive at the moment and all the other prisoners they'd lost in Vietnam, they got back a very relative small percentage of them at the end. A lot of them died on the death march. They had a death march from Dien Bien Phu very much like the Japanese one out to Bataan.

Senator GRASSLEY. Did you ever share this information with Dr. Kissinger?

General WALTERS. I don't know whether I shared—I probably did in the course of conversation, but I certainly sent a telegram to the Defense Department to Defense Intelligence for whom I was working then to the effect of this conversation and I'm sure I must have shared it with anybody I talked to about this.

Senator GRASSLEY. Is there any way of knowing what Dr. Kissinger's reaction was?

General WALTERS. I think he was shocked at the idea of this low percentage of prisoners. Nobody really believes that these people were what they were.

Senator GRASSLEY. You had made some comment in your deposition about the fact that his reaction was that they probably will not kill ours because they want more from us than they did from the French.

General WALTERS. That's up to the peace, up to the agreement. Beyond the agreement, they had no way they could justify producing prisoners after the agreement. They were an embarrassment to them at that point.

Senator GRASSLEY. Was Dr. Kissinger aware of the North Vietnamese's desire to link reparations with the release of U.S. prisoners?

General WALTERS. Oh, I think anybody who was at those meetings was. It was perfectly clear. They didn't make any secret about it. It was blackmail on an international scale.

Senator GRASSLEY. Tell the committee to what extent you feel that Dr. Kissinger was aware of their desire to link reparations with release of U.S. prisoners.

General WALTERS. Well, I mean, they kept bringing it up all the time. They knew it was our great interest and they knew what their great interest was and they constantly strove to connect the two.

Ambassador LORD. Excuse me, Senator. On that particular point, if I can interject, my recollection is that it was a central part of any agreement for them. I don't know how often they specifically linked it just to prisoners, but they would say for an agreement at all, whether it's cease-fire or international supervision, the whole

agreement would have to include something along these lines. But maybe my other colleagues would recall. I don't know how often they specifically tied it to prisoners. The transcript would show that, I just don't recall.

General WALTERS. You mean tied to our prisoners?

Ambassador LORD. Yes. I don't know whether the economic aspect—what they called reparations and we called reconstruction—was just something they said was essential to an overall agreement which they clearly did, and how many times they linked it specifically to prisoners. The transcripts will show that. I just don't recall.

General WALTERS. I don't have the transcript so I don't recall, but it was pretty clear to me. My understanding was this is what they really wanted from us, the postwar reconstruction aid and obviously they knew what we really wanted from them short of surrender was the prisoners.

Senator GRASSLEY. Mr. Chairman, I am done with my questioning.

Chairman KERRY. Thank you very much, Senator Grassley. Mr. Ambassador Lord, let me just try to finish up a few questions with you and then I want to ask Ambassador Sullivan some things about Laos which greatly interests the committee and we want your expertise on the nature of that war and prisoners there. But if I could just turn to Ambassador Lord again for just a moment.

We left off talking about the dynamics of the balancing that was important as to where to proceed at that point, and once the agreement had been signed, I take it, given the euphoria that you referred to, the difficulties of negotiating with the North Vietnamese, the length of time it had taken to get the agreement, the extraordinary impulse of the United States to be free of this, Watergate that was on top of the President, all of these dynamics that came together, that there was a strong inertia against upsetting that agreement. Am I fairly characterizing the state of mind with which people viewed things then?

Ambassador LORD. I think that's a fair summary. I was shown documents during my deposition which I had forgotten if I ever knew—and I don't think we're on classified ground here, stop me if I am—about consideration being given in late March to at least temporarily to be forceful about this, but I don't know how much we can talk about it.

Chairman KERRY. That isn't classified, the discussion about bombing, resuming bombing and so forth.

Ambassador LORD. The March suggestion that maybe we ought to be more forceful and maybe hold up the agreement. That would be the exception to your general assumption which I think is accurate.

Chairman KERRY. I am aware of what that was about.

Ambassador LORD. Excuse me, can I add one other thing? I recollected this in the last few days—I don't know whether out of the newspapers or memoirs and it might have been Kissinger's memoirs. Apparently—and I had forgotten this—some time in February, I don't know if it was the second tranche of prisoner release, the Vietnamese were holding things up again. I think they were linking the prisoner up to the release Vietnamese civilian question

which we had already settled. We at least temporarily stopped our withdrawals or did something for a day or two until they fell into line again, so that would be another exception. I don't know where I saw it.

Chairman KERRY. There was a March list that was in the deposition process, I think. There was a March list which they were not forthcoming with, so there was a 1- or 2-day discontinuation of the withdrawal process and then they turned around and produced the list immediately.

Ambassador LORD. But these are exceptions. Your general summary, I think, is a fair one.

Chairman KERRY. Did the upset that people felt about the balancing act, if you will, and the balancing act itself apply also to the incompleteness of the list in Laos and Cambodia?

Ambassador LORD. That's what I thought we were talking about.

Chairman KERRY. So you are referring to all of Indochina, any questions about Vietnam or Laos, or Cambodia, all of them fit under this umbrella of unwillingness to upset the applecart?

Ambassador LORD. Well, what I'm saying is that there was some malaise on several fronts—cease-fire violations, although probably by both sides, signs of possible continued infiltration, as well as the discrepancies on the lists. So from early on there were some doubts about full implementation by the other side, and clearly whatever these doubts were, they didn't add up to a sufficient case that was made in the President's mind to stop implementing the agreement.

Chairman KERRY. Now, during the deposition you were shown a memorandum from late March 1973 that indicated that top-level Government officials, U.S. Government officials, appeared nearly unanimously to hold the opinion that live U.S. POWs were being held in Indochina, correct? Let me quote from the document.

Ambassador LORD. Well, I remember the DIA memos and so on.

Chairman KERRY. Correct. One of the documents says, particularly with regard to Laos, quote, there was a belief held by many if not all at the top of our Government that there were live prisoners in Laos in addition to the 10 on the list that was provided on February 1, 1973. Do you agree with that?

Ambassador LORD. My memory is refreshed. I knew we were disappointed with the list, particularly Laos. But whether you can characterize it as everyone at the top, or almost everyone, was sure there were live people, that seems a little strong. There was strongly suggestive evidence and we were very unhappy with the discrepancies, but I'm not sure I'd use quite the formulation you used.

Chairman KERRY. Even though that memorandum was written in March 1973?

Ambassador LORD. Well, I'm not saying it was wrong. It's not my recollection that it was that unanimous and that assured, but there was clearly uneasiness.

Chairman KERRY. Did you and Dr. Kissinger discuss that uneasiness among those top advisors?

Ambassador LORD. I'll be very precise here. I would be amazed if we didn't. I do not recall doing so.

Chairman KERRY. Now, subsequent to the announcement by President Nixon that all of our American POWs are on the way home and subsequent to Roger Shields' statement at the Pentagon

briefing that we have no indications that any Americans remain in Indochina, it was suggested to us that the Assistant Secretary of Defense for public affairs—by the Assistant Secretary of Defense for public affairs that Mr. Shields would not have made that statement without the approval of some higher up. Is that accurate or not, or do you know?

Ambassador LORD. Well again, I have not seen—and I really would like to see his whole statement that day. I don't know whether his single sentence was a carefully stated formulation that was supposed to lead the headlines.

Chairman KERRY. But in any effect—

Ambassador LORD. But the point is that he would get his guidance for something that important and that sensitive as a minimum from the Secretary of Defense, and I would have thought from the White House.

Chairman KERRY. In any effect, taking both statements and their impact, you I believe hold the view that our Government lost any leverage it had on the Lao or the North Vietnamese. Is that accurate?

Ambassador LORD. Well, I volunteered that at my deposition. In addition to the troubling aspect of whether you were misleading the American public and Congress, it seems to me you are obviously hurting your leverage with Hanoi if you're saying publicly or implying that U.S. prisoners were being left behind. But again, I want to see the whole context of what else was said on either of those occasions because I suspect the full record indicates public acknowledgement of an uneasiness about missing in action beyond these two statements out of context.

But nevertheless, to the extent that you give the impression that there's nobody alive left there, it's a little tougher to go to Hanoi and say, give those people back, no question about it.

Chairman KERRY. Let me say to you that the record at least in front of this committee is considerably absent any great public statement with respect to this uneasiness you refer to.

In point of fact, it is very hard for the committee to understand if the U.S. Government is publicly saying we do not have any indication of anybody alive, it would kind of be meaningless to sit with them and make real your notion that you are worried about discrepancies or that they have to worry about it. Certainly their having to worry about it is diminished.

Ambassador LORD. There is nothing in the full Shields press conference or statement that's somewhat less misleading than that single sentence? I ask that agnostically, I don't have the text. While it does not excuse any misleading that was done, obviously any public spokesman had also to be careful not unduly to raise the hopes of families. And so I'm sure that contributed to the problem of how one stated this.

Chairman KERRY. Respectfully and I do mean respectfully, that does not make sense. The families have their expectation, their loved one was listed POW. They were waiting when the plane came back. They did not see their loved one come off the plane. You cannot raise expectations much more than that. They are sitting there with the knowledge that their loved one was in fact a prison-

er and now suddenly everybody is saying, wait a minute, we do not have any indication that anybody is alive. Go home.

Ambassador LORD. You said the knowledge of prisoners. Again, you yourself have said we never had ironclad proof in many of these cases. I'm not excusing individual statements. In fact, I'm troubled about some of these statements that have been shown me which I had forgotten about.

I think all of us in hindsight would certainly have crafted them a lot better. What I am saying is that I also suspect that the spokespeople who had to talk about these issues did not want to in effect say we have an agreement, but there's live people back there, when there was no proof. There was some danger of getting people's hopes up that there was hard, clear evidence, hard evidence as General Walters has suggested.

Chairman KERRY. But you take yourself back to 1973 and you are a family and let us say for the sake of a particular case, you take someone lost in 1972, you know you have got a picture of them being held. You know they were last known to be a prisoner. The family has received a letter from them or whatever. Let us leave out the letter, no letter, but they were last known in a state of captivity, they do not come back.

Now, while I would, as I have said, I cannot say to a certainty that I know there is a tree falling in the forest, but I sure would want to go and see whether somebody is cutting it or what is happening and that is what we did not do. That is the missing ingredient here which constitutes full accountability, does it not?

Ambassador LORD. I agree with you. I've said in my deposition and I'll repeat here today, I'm troubled by some of the statements that were made. I'm trying after 20 years to try to be fair to people like Mr. Shields who everyone has testified was totally devoted to this cause and trying to understand why some statements might have been made and the motivation for them. I also would welcome seeing the entire text and context of it.

Chairman KERRY. Let me ask you this, I know I have gone a little bit over. But as major public policy makers of that period and also public servants helping the American public understand this and looking at this, can you understand why still today there are people who believe that they were misled, that the Government was in a conspiracy, that they were lied to and that they have been led down the path over the years after those comments, given the evidence, is it understandable?

Ambassador LORD. I think it's understandable. I think some of the terms you used are unfair, but I can understand why people might harbor these doubts.

Chairman KERRY. I am not saying those things happened, I am saying why they say each of those feelings are—

Ambassador LORD. I understand. I want to make very clear my sympathy for the families and the agony they've been put through. Again, let's remember they've been put through this by the North Vietnamese first and foremost. But I have great sympathy for these families and I could see why this issue has been kept alive. I can understand it and that's why you're justified in this hearing.

Chairman KERRY. Well, I will come back to that. Ambassador Sullivan, Laos is a huge puzzle obviously to everybody, an enor-

mous number of people shot down, 2½ percent rate of return. By most accounts, 20 or so we thought were prisoners. Those who came out came out through Vietnam, not through the Pathet Lao. We never had an agreement with them; what can you tell us as Ambassador to the region and also as a member of this negotiation team? If you'd just share with the committee what the expectations were about Laos and what do you think happened?

Ambassador SULLIVAN. Well, if we want to go into this in some depth, let me start with the political structure in Indochina. The real political power in Communist Indochina was with the Lao Dong party. The Lao Dong party was the Indochina Communist party that was founded in 1926 by Ho Chi Minh. Its purpose and intention was to liberate from French colonial control all the areas of Indochina which the French then dominated. These were the elements that made up Vietnam itself, plus Laos, plus Cambodia.

The Communist party at that time was headed by Ho Chi Minh, who was a man from Hanoi, and dominated by his colleagues. They had individual party secretaries that covered places like Laos and Cambodia and Tonkin, An Nhon and so forth, but the power was centralized in their politburo and when they did succeed in 1954 in taking over North Vietnam, the control of that apparatus in Indochina remained in the hands of Hanoi, so that Laos was a political appendage, that is to say, the Lao Dong party, the Communist party, the Pathet Lao as they're called, in Laos was under the direct control and dominance of the politburo of the Lao Dong party in Hanoi.

Now, the Pathet Lao per se were never much of an organization. We have never been able to get a fix on how many they actually were. I would be prepared even today to believe that there were no more than 500 of them, so that there were a great many more sympathizers, but people that the Vietnamese had armed and permitted to operate as Communist military elements in Laos probably that small.

Therefore, the bulk of the military operations that were taking place in Laos, the brunt of them was carried by the North Vietnamese either in the form of North Vietnamese regular divisions, for example, the North Vietnamese 316 division annually in the dry season made an incursion down toward the Plain de Jars, and annually during the 5 years, 4½ years that I was Ambassador there, we beat them back and actually caused more casualties to that division than they caused to our friends.

There was another totally different operation which was the logistics line of the Ho Chi Minh trail that ran down through the southeastern portions of Laos on the other side of the Annamitique Cordillera and this was the supply line to Vietnamese forces in the south and Viet Cong forces that you are acquainted with in the south.

The military operations that our Government conducted against—well maybe I should make another statement. You will recall, when President Kennedy was elected, that when he went to the White House before coming up here for his inauguration, President Eisenhower talked with him at some length and almost exclusively about the real problem of Laos, being a military force there. So President Kennedy, when he came into office, called for a mili-

tary assessment from the Joint Chiefs as to what it would take to operate successfully and militarily in Laos.

The Joint Chiefs very sensibly said it's a very poor place to fight a war and so we were instructed then and I participated in those negotiations to get some sort of a neutralization agreement for Laos and then to play hardball in Vietnam for the several assumptions.

One, we had a long coastline which would facilitate supplies. Two, we had what was supposed to be a bunch of tigers in the South Vietnamese military forces who could stand up against the North Vietnamese, and third, we had a new policy development in the military of counterinsurgency in which they really thought they could fight this thing on the ground.

So when Laos was neutralized and this is what accounted for the unacknowledged military actions that we took there, we never acknowledged them. We never said that we were doing it in public because we wanted to continue to preserve the option of retaining a neutralized Laos and hoping that we could reestablish the 1954 understandings with respect to Vietnamese. That's all preparatory.

The military action that took place along the Ho Chi Minh Trail was of two types. One, there was very heavy bombing by the U.S. Air Force and the U.S. Navy. Second, there were infiltration raids which were to some measure mixed elements, that is to say, South Vietnamese rangers and U.S. Green Beret-types. A lot of the casualties taken in Laos were taken in that Ho Chi Minh Trail area by these young fellows who went in on what I always regarded as suicide missions and I think it was tragic that they went in there, because they could have developed—intelligence reports were they clearly were outgunned, outmanned. They could not possibly expect to gain a battle there, but they kept going in and we kept taking casualties there. I would say that the chances of anyone surviving a firefight in that jungle, any American, were very, very slim. The chances of surviving as a POW, in my judgment, pretty nil, although some were sent back up the Ho Chi Minh Trail.

I would think as Dick Walters has suggested, that in that brutal environment, anybody captured there was pretty soon disposed of with a bullet in the head. So that would account for in my judgment the high ratio of nonreturnees from people who might have been captured in that area. The second area of operations we had were air missions in Laos and air missions over Laos going toward North Vietnam. There were not very many heavy antiaircraft weapons in Laos, so if a plane came down in Laos, it was likely that it had been nicked in North Vietnam and was trying to get back home to Thailand or get to some place where it could land in friendly territory.

We had smaller planes and a few operations done by a mixture of U.S., Lao and Thai pilots in Laos. They were largely providing fighter cover for ground forces who were indigenous Lao, the Hmong forces who were run by paramilitary officers, but the paramilitary officers were prohibited, at least during my tenure there, I prohibited them to go into combat. I had one or two violations of that and I had those people removed from the country. So we didn't lose many people on the ground in the northern and north-east sections of Laos.

Now, let's turn to the pilots who were shot down. They were usually shot down in very terrible jungle. They were usually captured, depending to some degree on the season, because if it was the dry season, the North Vietnamese regulars might have been in there. If it was the rainy season, they would be captured by their regular forces, highly undisciplined forces and my guess would be that a lot of them even after capture were either tortured to death, starved to death, treated in such a way that they developed dysentery and died and probably didn't survive.

And I think that accounts in some measure for the high ratio of people who didn't return after either we got a beeper from them and knew they were on the ground or we even had a sighting and knew they were on the ground. Now this whole question of sightings, I guess, it was Dick who said they were moved around because I think the general purpose was if they were captured by a Pathet Lao unit or even a remote Vietnamese unit, they were to be passed back up toward Sam Neua and eventually up toward Hanoi for interrogation. So there might have been seven sightings of the same person in various stages of movement, hence therefore, seven different locations.

In the early years when I was there, when we had the Hmong units up there, every time we fell back we left behind small intelligence units in the villages with radios for communications and we had the assets to check out some of those live sightings. Some of them were confirmed, some of them were not.

One of the things that I think has to be mentioned is that we rewarded Lao sightings by small payments, therefore, I think we've created a cottage industry of live sighters who found that if they could turn in a live sighting report, they might get some pecuniary reward for that. All of this is in the thrust of your question, why in relative terms did it seem that there were so few people considered to be alive after hitting the ground, who ultimately returned.

I was in Paris when the Vietnamese finally disclosed that the number from Laos was 10, one of whom turned out to be a Canadian and there was enormous disappointment. Tom Moorer, Admiral Moorer, had a figure and I can't remember where he got it, but it was somewhere around 40 that he was anticipating, so we thought there was a shortfall even given all these—the filter of all these considerations I've just made, we felt there was a shortfall of possibly somewhere around 30. But the measure of hope and the quality of hope we had for anybody who got knocked down in Laos was not terribly high.

We had a couple of people who escaped. Did you ever depose Dija Dengler?

Chairman KERRY. We read some of his stuff. We have his book. We have not deposed him, no.

Ambassador SULLIVAN. Well, anyway, one or two—these fellows can tell you the type of—

Chairman KERRY. He's on the schedule to be deposed.

Ambassador SULLIVAN. The type of existence they had in those—they were put in cages, they were—

Chairman KERRY. Thank you. I think that's helpful. I will yield to Senator Smith. There are some follow-ups.

Vice Chairman SMITH. That was a long lesson in history, there. I was trying to listen and concentrate on the questions I wanted to ask at the same time.

I want to focus just quickly and then move away from it, but I am fascinated by the terms that crop up here called ironclad proof and hard evidence. Let me see if I can explain to you concisely and ask a response from you on why I take issue with it.

When you went into the Paris Peace Accords in 1973, did you have hard, ironclad evidence on American POWs in Vietnam? Mr. Lord.

Ambassador LORD. What do you mean, did we have hard evidence?

Vice Chairman SMITH. Just what I said. Did we have hard, ironclad evidence under your definition of the word?

Ambassador LORD. I think yes, parading them on Vietnamese television, as well as our intelligence reports. There are shades of evidence—the numbers, obviously, we didn't have hard evidence on. But that there were some, clearly.

Vice Chairman SMITH. We had hard, ironclad evidence on some in the sense that they were paraded, but we also know—

Ambassador LORD. Well, and other suggestions of hard evidence.

Vice Chairman SMITH. We also know there were some that were paraded that didn't come back, i.e., the discrepancy cases, so do you still insist that it's hard, ironclad evidence?

Ambassador LORD. I'm sorry.

Vice Chairman SMITH. My point is, did you have hard, ironclad evidence as we entered into the Paris Peace Accords that American POWs would be returned from Vietnam, yes or no?

Ambassador LORD. I would consider it hard evidence that we would get some back, yes, because they admitted they had them and they said they would do it, and it was part of the agreement and they knew it was a sine qua non, certainly.

Vice Chairman SMITH. General Walters, do you agree with that?

General WALTERS. During that period, Senator, through a contact in the French Communist Party I got a Vietnamese propaganda movie they were showing to the Communists in France—I could only get it for 24 hours—of Senator McCain, who was then a lieutenant commander. I notified his father, who was in London at that time. He flew over with his wife, looked at the pictures, and I had to give the film back that night. Now, that was not paraded in the street. That was a private film.

Vice Chairman SMITH. We know that there were some that were more ironclad than others, but in general the answer to your question is yes, and I agree with you. But the point that I am making—Mr. Aldrich, I want you to respond to this from a legal sense in terms of the agreement, and I will get to you in just a second.

My point is, what is the difference between the ironclad evidence that you had on Vietnam before you went into the agreements and the ironclad evidence that you say you did not have going into Laos, where we did not have an agreement? We never signed an agreement with Laos. We never got an agreement with Laos. We never negotiated with Laos on POWs. As a matter of fact, this is where I come to you, Mr. Aldrich.

You, after the Paris accords were signed with Vietnam and just after the cease-fire was agreed to between the Pathet Lao and the Royal Lao, you wrote a memo sometime in—I forget the date. I do not have the exact date. It is here somewhere—February 21, 1973, I think—that Article 8(b) on MIAs did not apply to Laos, and you said that the United States would have to, quote, conclude further arrangements for tracing the missing in Laos.

So you were so sure from a legal point of view that the Paris Peace Accords did not in any way touch Laos, other than what the Vietnamese may decide on their own good graces to provide us, that you needed that side memo or that memo to clarify that, is that not correct?

Mr. ALDRICH. There was no understanding with respect to the accounting in January. There was, of course, a commitment by the North Vietnamese to secure the release of all our prisoners in Laos, and we did—we were, if you will, a third-party beneficiary of the Lao cease-fire agreements commitment to provide an accounting.

What I said in my memo, as I recall it, was that if we wanted to be directly involved by a joint military team that would go out and investigate and look at sites as we were in Vietnam through the four-party commission, then we would have to negotiate something with the Lao to permit that.

Vice Chairman SMITH. Yes, that is correct, that is what you say in the memo, and—but the point I am trying to make is that we had—evidence that we went into the Paris Peace Accords with the Vietnamese with, it is the same intelligence that we did not go into an agreement with the Lao with, and when we now discuss because POWs did come home as a result of a negotiated agreement, we talk about it as hard evidence, but when we discuss the POWs who did not come home from Laos because we did not have an agreement, it is no longer hard evidence, it is this kind of stuff, and that is the area that I sharply disagree with you with, and I think that somebody should have an explanation for that, perhaps some of the other policy folks.

Mr. ALDRICH. If I may, I never used the word hard evidence.

Vice Chairman SMITH. Ambassador Sullivan, let me ask you the same question. Where is the explanation for that? You were the Ambassador there.

Ambassador SULLIVAN. I don't really follow your point, Senator, but let me say there were several instances in which we had hard evidence that people shot down in Laos had been taken prisoners while alive. In other words, we had, for example, T-28 aircraft and we had H-34 helicopters that we could sometimes get over a crash site while a pilot was still on the ground and sometimes even had communications with him, so that we knew that he was alive.

Now, there's a possibility he could have been killed in a firefight subsequently, but that was hard evidence.

Vice Chairman SMITH. I understand. I agree. My point is, I for the life of me do not see the difference other than the fact that an agreement was negotiated in Paris and that some Americans came home from Vietnam—I do not see the difference between the evidence going into the pipeline which you folks dealt with at the ac-

cords which you did not deal with in Laos under Article 5 of the Lao accords because we did not have an agreement with the Lao.

And you said at a WSAG meeting, or there was a WSAG meeting, rather—that is the Washington Special Action Group—there was a conversation with some State Department official whose name is redacted out, so we will not get into names, but, question—

You won't—this is March 13, 1973—State Department official: you won't complete the withdrawal until the Lao prisoners are released.

Dr. KISSINGER. That's right.

DEFENSE DEPARTMENT OFFICIAL. How many are there in Laos?

NSC STAFF (NAME REDACTED). They've told us they hold more American prisoners than the eight on the list that we received from North Vietnam.

Dr. KISSINGER. They have, they told us they hold more than eight?

STAFF. That's right.

STATE. We've had contact with the Pathet Lao several times.

Dr. KISSINGER. And they've admitted they hold more?

STATE. Yes.

Dr. KISSINGER. I didn't know that. How many more?

STATE. They haven't said. They've been giving us the run-around on the details. This is something you may want to keep in mind. You may want to notify the DRV that the Pathet Lao have told us this and ask them to be more forthcoming on POWs in Laos.

DEFENSE TO KISSINGER. Will you handle this through your channels?

Dr. KISSINGER. Yes.

So we are looking at March 13, 2 weeks later, roughly, the President of the United States says everybody is home, and you are at the highest levels of the U.S. Government with the Defense National Security Advisor, the Defense Department, and the State Department discussing prisoners in Laos and having contacts with officials.

Now, if it turns out—and hear me out. I do not agree that it may turn out, but let us say it turns out that all the information was erroneous—I do not believe that it is, but if it did, the point is at that time you folks did not know that, and what I do not understand is why you did not—especially you, Mr. Aldrich, in terms of your legal capacity, why you did not impress upon the negotiators that it was urgent that they get to those accords in Laos and to discuss the prisoners that the Laos said they had.

I mean, we took the Vietnamese at their word. They said they had prisoners. We did not take the Lao at their word. We said they did not.

Mr. ALDRICH. Senator, I have to say I had no knowledge of any of this. When I went to Paris in late April to resume these negotiations, I can recall that nobody in the NSC staff or anywhere else telling me that they thought there were any prisoners left alive. It was strictly a matter of accounting at that point.

Vice Chairman SMITH. Well, these are official documents. I know you were not there, but these are official documents in which these things are being said.

Mr. ALDRICH. But if you ask me why I didn't go and do something about it, the answer is I never heard this information, Senator.

Ambassador SULLIVAN. Let me make a comment, Senator. I don't recall being at that WSAG meeting and I may or may not have been, but it seems to be in the timeframe in which a fellow named Soth Pethrasy, who was the nominal Pathet Lao representative in Vientiane, had made some rather boasting statement to a newspaperman, journalist I think, about having a great number of prisoners.

And I recall that we then sent out instructions to Mac Godley, who was the Ambassador, to have him or John Dean, who was his deputy, go around and talk to Soth Pethrasy and ask him, what's this all about? Who are these people, and what's the list of it, and then we got back messages, and I suspect you probably have all this in your files, which indicate the conclusion that this fellow didn't know what he was talking about.

However, March 13, had we by that time gotten the nine back through Hanoi, March 13?

Vice Chairman SMITH. I do not think so at that point.

Ambassador SULLIVAN. My recollection is there was considerable stalling on that.

Vice Chairman SMITH. But the key here again—I know we're looking back. The key is—no, we had not gotten the nine back, but those nine were imprisoned in Hanoi or in Vietnam. They were not in Laos. They were captured by the North Vietnamese.

Ambassador SULLIVAN. Well, they may have been captured by other people and passed on up to them.

Vice Chairman SMITH. The North Vietnamese had them at the time of the accords, but I can't find the exact document reference, but I have it somewhere where Pethrasy is always used, because Pethrasy recanted several years later, or several months later, but there are other officials that are referenced by some of our Government folks.

Ambassador SULLIVAN. Lao officials, Pathet Lao?

Vice Chairman SMITH. Yes. Souphanavong for one, who was fairly knowledgeable, I would say.

Ambassador SULLIVAN. Well, he was in Hanoi.

Vice Chairman SMITH. They were saying that there were prisoners. I do not want to beat it to death, but another point was brought up consistently. You mentioned Godley, but it came up all the way through the period from March 13 through March 23 and 24 before the President went on with his statement. They dealt with it almost exclusively.

The President decided he would not accept the DRV proposal to return the U.S. POWs by March 25, because there are still POWs in Laos. General Scowcroft dictates to Murphy, you know, essentially the same thing. The President made some comment about it saying that we are going to have to hold off here until we get answers.

Now, if it turns out 20 years later the intelligence was wrong, then so be it, but at that time, nobody believed it was wrong, and I say that it was ignored.

I just have one final question of Mr. Aldrich in the legal sense. Is the agreement today—are the Paris Peace Accords still binding, in your opinion, between the parties?

Mr. ALDRICH. I think the Paris Peace Accords were totally destroyed and torn up by the conquest of the South.

Vice Chairman SMITH. Any other reasons why you would say they would not be binding?

Mr. ALDRICH. No. I think basically these were undertakings—I mean, there were violations, certainly, from the day practically after they were concluded of one kind or another, and certainly the failure of the North Vietnamese to comply with Article 20 and help to bring about a cease-fire in Cambodia was the final sort of death blow, in a sense, to the accords.

But still we tried to keep them in existence because of other—you know, the other provisions on the cease-fire, so long as there wasn't an all-out North Vietnamese attack on the South, but once that occurred our position in the State Department was that the agreement was finished.

Vice Chairman SMITH. If they are not binding, and I would tend to agree based on the North Vietnamese invasion—if they are not binding, then, there would be no obligation on the part of the Vietnamese to provide us any more prisoners because they say we did not pay them any war reparations, which is Article 21, and there certainly would not be any reason for the Lao to deal with us, because we never signed an agreement with them.

Mr. ALDRICH. They had a commitment from the beginning under the Geneva Conventions to return prisoners at the end of the war. They've also become a party to the protocols of 1977 that I helped negotiate.

You know, you can't keep somebody else's prisoners of war indefinitely, but under this agreement, per se, if the agreement's finished, then the commitments here are finished, too, yes.

Vice Chairman SMITH. OK. Thank you.

Chairman KERRY. Senator Kerrey.

Senator KERREY. First of all, let me sort of declare why I think this issue of secrecy is important. There is a difference when it is applied to different subjects. It will have a material impact, it seems to me, on the kind of judgments that we all make.

You can make a case there was a need for secrecy in regard to the bombing of Cambodia from March 1969 to March 1970. There was a need for that secrecy. I have a difficult time making that case, but you can make the case and explain it to the American people and some will side with you and some will side against you. It will be an arguable point.

You could even make the case, as Dr. Kissinger did, that there was a need to have secret discussions itself. I would actually side with Dr. Kissinger in that regard, that the need for secrecy was probably there, although I believe it got to the point where it was so excessive it was difficult to communicate with policymakers that had not only views but information that would have been valuable, but then that is a 20-year judgment and easy to make.

But when you are talking about the possibility of saying to a family person that when I say to that family person, and I do not provide them with all the information, when I maintain secrecy in

regards to their questioning me about loved ones, then it is very much like a police chief, let us say.

Let us say I am a police chief and any one of you are coming to me trying to find a missing relative. Say there has been a kidnapping in your family, and you come to me trying to find a missing relative and you ask me, do I have any information, and I say no, I don't have any information. In point of fact I have been trying to negotiate with money to buy it, or I have been trying in some other fashion to negotiate the release and I do not disclose it, or I have some actual, material information. I do not provide you with that information.

It seems to me then the need to maintain secrecy, particularly if the negotiations have ended, can no longer be credibly made, and that is what we are dealing with here, it seems to me, and again we are dealing with it with a considerable amount of hindsight, but it makes the question of secrecy that much more important and much—at least, I would argue, materially different than other policy areas where you can make the case and argue.

I would like to talk, and get you to talk to me, about one of the other declarations that was made at the time that the peace agreement was signed that South Vietnam would have the opportunity to determine their own political future. That was a declaration that was made. Indeed, if you ask me, I would say I would hope that that was a very top consideration. In fact, I would argue that if it was not a top consideration it would make it difficult to get a full accounting of the POWs. But do you all today still believe that the peace agreement gave the South Vietnamese Government the opportunity for self-determination?

Ambassador LORD. I will be glad to start. I do, yes, very firmly. As mentioned earlier, and as you know from the record, we felt one of our major achievements was to separate the political from the military precisely for that reason, so we could get out of the business of overthrowing an ally and installing a coalition Government.

To answer your question more directly, for South Vietnam to determine its own future meant the agreement had to work, and therefore you really get into a debate, would the agreement hold up?

Those of us who worked most closely on this agreement, including the people at this table I think I can speak for, as well as Dr. Kissinger, and so on, we honestly felt, without being naive about Hanoi's intentions, that there was a chance it would work and that South Vietnam could determine its future. There were four or five reasons—some of which have been touched on already by Ambassador Sullivan—we thought this could happen. This therefore gets to your question if South Vietnam could freely choose its future.

Number one, if there were minor violations of the cease-fire we believed that after not only 4 years of Vietnamization but a longer period of aiding the South Vietnamese, they should be able to—and we thought they were able to—handle these violations on their own.

Senator KERREY. Did you expect, by the way, that they would select a democratic future?

Ambassador LORD. Well, that was up to the Vietnamese. We would prefer that, obviously.

Senator KERREY. Was it your expectation that they would select a democratic future?

Ambassador LORD. Well, over the long run, we would hope it would reflect the will of the people. We were not naive in the short run, given the traditions there, that it was going to be a full-blown democracy, but certainly we would hope that over the long run.

In any event, if there were minor violations we felt we had performed our duty of helping them through gradual Vietnamization, through aid to Vietnam and through aid which was permitted under the agreement to continue on a replacement basis, and we thought that they could handle it.

As for major violations—and this was a major miscalculation of the domestic mood of the United States, I would agree with that—the understanding was that Hanoi would be deterred from making major violations because it thought this madman Nixon, after being reelected with a mandate, a huge mandate, and not having to worry about getting reelected again, would bomb them if they attacked.

Now the fact is the mood of the people and the Congress was such that we were not about to respond to major violations, and we can debate to what extent Congress has a responsibility for the fall of South Vietnam, but the fact is that that didn't prove out.

Other elements we thought would hold the agreement together included the economic reconstruction which was an incentive to Hanoi to make the choice in their Politburo that rather than gobbling up South Vietnam immediately it would fall in their hands over time. They'd take aid, take normalization, take the military agreement only and—there were debates in the Politburo to this effect—observe the agreement at least for several years.

Finally, we thought the Chinese and the Soviets could be helpful. We'd established relations with them, and we could use our new relationships with them, which they considered more important than their allies in Indochina, to help restrain Hanoi and cut off supplies.

Now, you could argue these were naive assumptions or wrong assumptions. But through a combination of the military responses that I've outlined, economic incentives, and super-power diplomacy we thought we could hold this thing together long enough so the South Vietnamese through a negotiating process with the North with some evolution over time could determine their future. That was our judgment, and that was our hope.

We were not naive about Hanoi's intentions, but we thought they might settle for the long run with economic aid and in the long run the South Vietnamese might survive.

Now, it didn't succeed, partly because the South Vietnamese had a corrupt government to a certain extent. Their army wasn't as good as we thought it was, even after Vietnamization. The Congress was in no mood to help, and indeed cut off at least military assistance. You could argue why Congress cut off bombing, but why it cut off military assistance is hard to defend.

So for all these reasons the agreement fell apart, but when we made that agreement we honestly felt we had an honorable agreement in part because we were giving the South Vietnamese a chance.

Senator KERREY. You thought the four-party joint military committee would be fully staffed and would work.

Ambassador LORD. We knew it was going to be difficult. It was one of the elements along with international supervision generally that we would pursue as hard as we could. We were not naive, but we also felt it was the best deal we could get, better than people expected, and could hold up for the reasons I've outlined.

Senator KERREY. Ambassador Sullivan, you had experience, as I said earlier, with efforts in Japan after the war.

Ambassador SULLIVAN. Let me first address your question of secrecy. I thoroughly agree with everything you've said. Implicit in the question, I guess, is the allegation that a great many families were not given facts because things continued to be classified secret. I wasn't aware that was the case.

Senator KERREY. Sure. The families were asking were reparation offers made, economic offers made. The families were told that everybody is back.

Ambassador SULLIVAN. As I said, I was out of the loop by this time, by the spring of 1973, because I went off to the Philippines, but I don't understand any rationale for that policy. I agree with you.

Now, the other question, did we consider that the South Vietnamese Government had an opportunity, and more particularly the question did we expect the four-party military international control commission would work, that could work only if the North Vietnamese chose to abide by the agreement, but the fact is that the North Vietnamese did not so choose.

Senator KERREY. By the way, I am asking—so that I do not have to drag you back 20 years, I am asking you for the purpose of trying to determine what we should do in 1992.

Ambassador SULLIVAN. Well, you're getting more and more into this now, because we have these same problems we're facing in ex-Yugoslavia and some of the other areas where we are imposing United Nations forces. All of those are going to work only if there is a clear understanding on the part of the parties who agree to disengage and to cease fire that they will continue. In the case of the North Vietnamese, it's clear that they had no intention.

Senator KERREY. Let me just say that when I myself argue that America's position should be to talk about political freedom in Vietnam today as part of our policy objective, I find myself sometimes arguing against people who now say that democracy and political freedom is impossible in Vietnam just because that's the nature of the people, the same people who were saying that self-determination for the people of South Vietnam was our policy objective for the war itself.

I am trying to discover if you all believed then and believe now that some kind of self-determination and political freedom should be the goal for our policy today in Vietnam and, moreover, do you have any kind of a sense, as I do today, and again it is a retrospective analysis and I understand it is easy to do, that when we put the POWs and our withdrawal as a one, two condition as opposed to talking about self-determination as the most important and some kind of a compelling vision for the people of Vietnam at the

moment we signed the treaty, which I find appallingly absent in all of this.

No real description, as we heard, about Japan at the end of the war, of what this nation could become if this peace treaty was successful and if the economic assistance were to occur and if the peace itself were to hold. No description on behalf of the people of Vietnam. I tell you that for those of us who did fight in the war in Vietnam, we believed the Vietnamese people had the capacity for self-determination.

Ambassador SULLIVAN. I would share that opinion, but again I go back to the statement, we defeated the Japanese. They surrendered abjectly to us. We went in with an occupation, and we imposed our vision on them and they accepted it and found it better than what they'd had before. I think in Vietnam—

Senator KERREY. I should ask you as well to insert—in your own deposition you made some reference to the fact that in the early days, in the early 1960's, it wasn't clear at all whether democracy would survive in Japan, and that one of the early rationales for our engagement into China was based upon a desire to keep the sea lanes open to Japan itself.

Ambassador SULLIVAN. Yes, absolutely, but that would have been *force majeure* that would have been brought upon them by an encirclement largely by the Soviets and some by the Chinese. I think again that the Vietnamese people have the quality to become good, democratic people.

I think that just 2 or 3 years ago you saw a tendency led largely by Nguyen Co Thach and his group in the Politburo to change the political and economic culture of that country which was then suppressed by the old members of the Politburo who threw Thach out. You've still got some of his people in there.

Some of us in Washington continue to see—we've got the oil minister of Vietnam right here right now. We still continue to see some of these people. I think there is a prospect of going back to that vision, particularly since they have lost their props from China and the Soviet Union, and then of course one of the, I feel, tragedies is we haven't moved to establish some sort of normalization with the Vietnamese so that we can accelerate that process rather than inhibit it.

Senator KERREY. Could you give me your opinion? You were ambassador to Germany at the time.

General WALTERS. I must say this is one of the rare occasions in which I find myself in full disagreement with Bill. We brought down the Soviet Union by putting pressure on them, pressure like the containing of them in North Vietnam, in Vietnam where they spent \$50 billion that didn't go into the Soviet economy, and I think to now soften on them without obtaining the kind of commitment you want to political change would be a serious mistake.

Senator KERREY. But do you believe that the people of Vietnam have the capacity for self-determination?

General WALTERS. Yes, sir.

Senator KERREY. Do you believe political freedom should be on our agenda when we discuss anything with the Vietnamese Government?

General WALTERS. If it isn't, we're not being true to ourselves.

Ambassador LORD. Could I interject here, because I feel very strongly about this on a personal basis. The Senator may know that I'm Chairman of the National Endowment for Democracy, so I am personally, together with colleagues, working for precisely that goal with programs directed at Vietnam and around the world.

I do not believe in this double standard, that Asians somehow, whether they are Chinese or Vietnamese, can't afford democracy. I think it's going to come, I think we should have it as an objective, so I want to make very clear my position on it.

Chairman KERRY. If I could just interject, General, as we brought down the Soviet Union and as we placed pressure on China, though for many of our likings not enough, and as we have placed pressure on other countries, we have also had embassies in their cities and we have dealt with them.

So I mean, you may not want to give them credits, and we certainly do not want to give them the IMF. There may be a lot of things we do not want to do, but it does not mean that we do not want to have the capacity to communicate our ideas and to gain information.

Ambassador SULLIVAN. I would endorse that and say the establishment of normal relations is not necessarily an endowment or a gift. It's something that will help us in our policy.

Ambassador LORD. Yes, but I also think making them be accountable on this question that you're inquiring on, MIAs, should be a very firm condition.

Senator KERREY. It is, and I think every Member of this committee thinks it ought to be.

Mr. Chairman, very quickly, earlier I had engaged—I am sorry to put you off here by interrupting, but earlier I engaged in discussion with Secretary Laird about the bombing in 1969, and there were some disputes as to his recollection and my recollection.

Chairman KERRY. We are nearing sort of the bewitching hour for this panel. If we could ask maybe a shortened round, if Senators do have additional questions. I do not know if they do, but I would like to press a couple of things if I can.

First of all, the meeting that was referenced earlier in Paris in which we quote—or not quite quote, but I paraphrase, we pressed the issue of the missing and the unaccounted for. Let me just say to you that we have the full text of the memorandum of conversation of that meeting here, and in fact the so-called pressing amounts to the following statement by Dr. Kissinger:

Dr. KISSINGER. Now, we would still like a sentence from you here I don't understand why you can't give us, which says that the DRV has been informed that there are no U.S. prisoners being held in Laos, that all the prisoners held in Laos have been released. It would be very important for us.

LE DUC THO. I have acknowledged to you that all of them have been released.

Dr. KISSINGER. Then why can't you write it down?

That is it. That was the sort of pressing of the issue, if you will, and I think the record ought to show that, and we obviously have some questions about subsequent points of pressure. Do you want to comment?

Yes, Mr. Aldrich.

Mr. ALDRICH. Well, since I was there, I should comment to this extent. We did out of the meeting get the agreement of Le Duc Tho

that we could probably say that they had undertaken to help us with the accounting in Laos.

Chairman KERRY. But did they? I mean, you know what they say they're going to do.

Mr. ALDRICH. Well, it all fell apart.

Chairman KERRY. I understand it all fell apart, but we didn't exactly raise a hue and cry about that on the subject of these unaccounted for.

Mr. ALDRICH. I agree. My memories and my notes on those meetings indicate that the principal discussions of nonreturn of prisoners related to the nonreturn of prisoners between the Vietnamese parties, not ours. Our concern as expressed was about the accounting in Laos. It was not a concern about nonreturn.

Chairman KERRY. But at that time there was an issue of nonreturn.

Mr. ALDRICH. Not in my view. I was not told there was any issue, sir.

Chairman KERRY. You had no recollection of any issue at that time, then, and no one had put in front of you at that time in May a question about people not accounted for in Laos.

Mr. ALDRICH. It was not, as far as I can recall, ever suggested to me that prisoners in Laos had not been returned.

Chairman KERRY. Then why would Dr. Kissinger have said, it's very important to us to have a sentence that says there are no U.S. prisoners being held in Laos? These are U.S. prisoners. This is the May meeting. "I don't understand why you can't give us a sentence which says the DRV has been informed there are no U.S. prisoners being held in Laos, that all prisoners in Laos have been released. It would be very important to us."

Mr. ALDRICH. Curiously, my notes do not show that. My notes show his only comment about it was about the need to have their help in the accounting.

Chairman KERRY. This is the verbatim transcript that will be made a part of our record. It's been released in full. But you see, that's what raises the question here in so many people's minds.

I want to come back to a question—you know, I guess my question is really how much fiction were we dealing with in this peace process in reality at that point in time? General Walters has used the word surrender. Mr. Lord, you and others have acknowledged, as we do, we had very little leverage. There was a vast sigh of relief in the country.

You, in fact, or Dr. Kissinger referred in his writings to a misjudgment by the Vietnamese that they thought we would be stronger after the elections. It was Dr. Kissinger's judgment, and I'm sure he shared it with you, that we would be weaker after the elections and that Congress was moving to do what it ultimately did. You knew that. You had to know that. You weren't negotiating, after 3 or 4 years, in a vacuum. You knew where the dynamics of the country were moving.

So the question sort of leaps out at me, knowing that, understanding all of this, how could you really have expected to enforce—how could you ever really have expected to leverage this, and was it not perhaps important to have a sentence saying all of

them are back from Laos because that was sort of part of this whole way of putting it behind us?

Mr. RODMAN. I don't recall the context of that sentence. It may have been a way to try to pin some public accountability on the North Vietnamese. But leaving aside the sentence, I'd like to respond to the general point about our leverage and what our expectation was.

I think, knowing all the risks that we were heading into as 1973 began, none of us anticipated Watergate and how it would explode and totally wipe out Nixon's political leverage. Our analysis was that some of the crucial votes in the Congress that we used to defeat were lost this time and it was probably because of the demoralization of the President's supporters. So this was an unanticipated factor.

But I agree with what Winston Lord said earlier, and it's very important. We signed this agreement believing that there was a balance of forces and that if we did the right thing we had a good chance to maintain it, and that there was a chance that the struggle within Vietnam would turn into some kind of political competition. There was a chance for this agreement to survive, and a lot depended on what we did.

Chairman KERRY. Well, I accept that, and I think I said earlier, and I'm convinced from all the reading that I have been doing, that Watergate looms far larger in this than I had ever imagined. That is just a personal judgment, but I think it was very significant in shifting some of the dynamics, but I draw your attention to the following letter—memorandum from the Secretary of Defense, then Elliot Richardson, and this was the memorandum that he wrote to Henry Kissinger regarding this very question of Laos.

He said, I recommend the President consider the following diplomatic track in order to gain some accounting of our men held/missing in Laos: (a) After recovery of the last prisoners from North Vietnam, Hanoi should be advised unequivocally that we still hold them responsible for the return of all POWs being held in Indochina, and in this regard any further minesweeping activity as well as all future U.S. reconstruction assistance should be described as wholly dependent upon the accounting for and/or release of U.S. prisoners being held in Laos—not believed to be held, not deemed to be, but being held.

Ambassador SULLIVAN. Had the nine been released by this time?

Chairman KERRY. This is March 28, 1973.

Ambassador SULLIVAN. I really don't remember the date. When were the nine released?

Chairman KERRY. Consistent with—they were released—the same day that they were released.

Ambassador SULLIVAN. The same day as what?

Chairman KERRY. The same day as they were released from Laos.

Ambassador SULLIVAN. That's the date of this memo.

Chairman KERRY. Yes. So once again, North Vietnam should be informed that accounting for 10 men out of a total of more than 350 is considered unacceptable.

In the meantime, about March 28, a strong demarche should be made to the ranking LPF representative in Vientiane by the U.S.

Ambassador personally. This initiative should plainly and forcefully assert that the United States will no longer play games with the POW issue in Laos. The LPF should be told that we know they hold U.S. prisoners and we demand their immediate release as well as an accounting and information on all of those who may have died.

Finally, the LPF should be advised that failure to provide a satisfactory answer could result in direct United States actions.

Now, that is what he is recommending to Dr. Kissinger. Dr. Kissinger then goes to Paris and according to the verbatim transcript merely says, give us a sentence that says they're all accounted for.

Ambassador LORD. Again, I was out of the loop as of February, essentially. I was not at these subsequent meetings.

Chairman KERRY. Every time we get to the nitty gritty here people are out of the loop.

Ambassador LORD. I just can't comment on that particular meeting.

Chairman KERRY. Mr. Rodman, you were there.

Mr. RODMAN. I was there, but I remember several days of meetings both in May and in June. Is it the fact that this is the only reference to the POW issue?

Chairman KERRY. Well, Dr. Kissinger wasn't at all of them, was he?

Mr. RODMAN. I think two rounds. He had a round of meetings with Le Duc Tho in May and in June that produced the communique.

Chairman KERRY. Did either of you put to him what Secretary of Defense Richardson suggested?

Mr. RODMAN. Is that the Secord memo that we're talking about?

Chairman KERRY. No.

Mr. RODMAN. Eagleburger's memo?

Chairman KERRY. It is a separate memo.

Mr. RODMAN. This is the memo that Secretary Richardson sent to Kissinger that was the result of Eagleburger's memo which General Secord wrote. Some of the wording of that memorandum might not have reflected what was a consensus view in the rest of the Government.

Chairman KERRY. Well, Secretary Richardson will be here. I do not know if he drew from the Eagleburger/Secord inspired memo or not.

Mr. RODMAN. I would guess it was drafted—well, sorry. Go ahead.

Chairman KERRY. What information were you dealing with? Is this accurate, or is that inaccurate?

Mr. RODMAN. I remember no consensus like that in the U.S. Government. I don't remember a dominant view in the Government that people were still alive in Indochina.

Chairman KERRY. So you don't recall personally ever putting it to Le Duc Tho or the people with whom you were dealing in that fashion.

Mr. RODMAN. That people were alive? I don't think—well, you should ask Dr. Kissinger what his view was. At least I did not believe people were still alive. I don't think that was the dominant view in the Government. I think whoever drafted this piece of

paper obviously felt that way, and it's reflected in the wording of it, but I just don't think we knew.

It was wrong to state publicly that we knew they were all dead, but I think it may have also been wrong to state emphatically that we knew people were alive.

Chairman KERRY. Well, did we not carry, according to Ambassador Sullivan, some 20 people we felt were alive in Laos, correct?

Ambassador SULLIVAN. No, there were throughout Indochina, I think predominantly in Vietnam. You mean the papers that we took to Hanoi? No. They were primarily—

Chairman KERRY. Well, Secretary Laird I think said 20 when he was here, 20 was the number they thought they carried for Laos.

Ambassador LORD. I think we had 80 principal names, maybe 20 for Laos.

Chairman KERRY. You left Laos?

Ambassador SULLIVAN. I left Laos in 1969.

Chairman KERRY. While you were in Paris, did you ever receive any hard numbers in respect to Laos?

Ambassador SULLIVAN. No, and the only hard number that I have—not hard number, but the only number that I've seen was in some document that your staff presented to me during my deposition in which Tom Moorer, Admiral Moorer, said that they had expected 41 from Laos when we got 9. Now, I don't know—again, this was a whole process of attempting to qualify whether people who were shot down and known to be alive were still extant by the time we got to 1973.

Chairman KERRY. Let me just say that we are running under the gun here. Secretary Haig is here and has been waiting very patiently and has a plane that he has to catch at the back end of this. I know that none of you will be distressed to terminate this particular panel, but just before I do I want to make sure that no colleague has any critical area that they want to cover extremely quickly if we can.

Vice Chairman SMITH. I just have one question.

Chairman KERRY. Senator Smith.

Vice Chairman SMITH. Probably to you, Ambassador Sullivan, because I am not sure who was around at that time in May 1973, but April-May 1973, when we resumed the bombing in Laos, did any of you have any direct information or any information whatsoever about American losses in Laos during that period of time from March, April, and May 1973?

Ambassador SULLIVAN. By that time, I think I was on the Philippine track. I don't believe I was still associated with the operations. I have no information to answer your question.

Mr. ALDRIDGE. I was involved in the Paris discussions but I have no information about that.

Vice Chairman SMITH. If we were using F-111's and B-52's, it is certainly reasonable to assume that somebody might have been lost as well as reconnaissance planes. I am not saying we did.

Ambassador SULLIVAN. If it was in Laos, there was less possibility than in Vietnam because the antiaircraft environment in Laos was not all that severe; particularly for B-52's there would have been no way to touch them over Laos. But I personally don't know,

but I'm sure—well, not sure, but you people must have documentation on that, don't you?

Vice Chairman SMITH. Well no, I do not. I have been trying to get an answer on that but I have not gotten it yet.

Ambassador SULLIVAN. I guess that's why you asked.

Vice Chairman SMITH. I will keep trying, thank you.

Chairman KERRY. Gentlemen, could I ask each of you and I am confident you will be willing to but I just want to put it in to the record, we may well need to follow up in certain areas as we sort of sort out documents. A lot of the documents we have only received in the last 2 or 3 weeks. It could well be that as a consequence of testimony here over these next few days, as well as after staff has had a chance to review the documents, we would have some subsequent questions, so if you would submit as you have to the agony of today a little longer, I think it will help the committee to draw some sensible conclusions at the end of this.

Again, I really express the appreciation of the committee and the Senate for your being here today. I know this is an unpleasant task, but I think your testimony has been very, very helpful to us and I think the committee is indeed gaining a much better sense of what the dynamics were and what was happening. We are very grateful to you for being here today. Thank you very, very much. If Secretary Haig could come forward.

[Pause.]

Chairman KERRY. Mr. Secretary, if I could ask you as a formality before the committee if you could stand to be sworn as all witnesses are? Do you swear to tell the truth, the whole truth and nothing but the truth so help you God?

General HAIG. I do.

Chairman KERRY. Mr. Secretary, again, my apologies for the delay. You have been very patient and we appreciate it enormously. We are trying to fit in an enormous amount in the span of time that we have and I know you know that is hard. If you could, just for the record, formally identify yourself and give us a sense of what you are currently doing, we will enter into the full record your distinguished resume and curricula.

TESTIMONY OF GENERAL ALEXANDER M. HAIG, JR., (RETIRED), FORMER SECRETARY OF STATE

General HAIG. Alexander M. Haig, Jr. I am a retired public servant, military, Executive Branch service, former Secretary of State. I now run my own company which is involved in international marketing, international construction, venture capital, merchant banking and I just finished a book and I give speeches, one of which I'll give here today.

Chairman KERRY. Thank you very much. It is your opportunity, you are on.

General HAIG. Thank you, Senator. I do just want to be very quick and brief with some informal remarks. The first is, I want to assure the Members of the committee that I was not a negotiator as such. I think the panel you had here before me, with the exception of General Walters, included those who were indeed heavily involved in the negotiations.

I did from time to time sit in on the negotiations. I was not privy to all of the details associated with our negotiating positions and generally was responsible, during my time in the NSC as Dr. Kissinger's deputy, with handling the rest of the world while he was dealing with the Vietnam negotiations. Increasingly, as the peace treaty appeared within reach, President Nixon asked me to play a somewhat increased role.

The facts are, however, that I had requested separation from the National Security Council and the opportunity to return to the military which was my chosen career and which had been interrupted by White House service. That was scheduled to take place in October 1972. It did not actually occur until January 1973. It did occur then. Events from January 1973 until May 8 of that year when President Nixon asked me to return as White House chief of staff were not specifically known to me, with the exception of a visit to Saigon to try to explain the peace accords to President Thieu and that was as vice chief of staff to the Army and not as a member of the NSC.

I disagree quite frankly, Senator, with your observation that I heard earlier today that this is a narrow POW question. It cannot be, and if you look at it that way you're going to derive some very erroneous judgments. I'm afraid, because the POW question was a part and parcel of the broader aspects of the Vietnam conflict and the environment in which the Executive Branch had to conduct its affairs and that involves a great deal more than this important question of POWs and MIAs.

Therefore, I would very much hope that the Members of the committee would not be involved in any final assessments without a very lengthy and extensive review of the evolution of our involvement in Vietnam and the policy deliberations in the broader sense associated with that. For that reason, I've given to each Member of the committee some excerpts from a book I've just written which is a unique perspective on Vietnam. Unlike most Americans, I had the advantage or disadvantage, and it's a mixed bag, of having participated in the Kennedy administration, the Johnson administration at a very high level and as deputy special assistant to the Secretary of Defense, Robert McNamara, and Deputy Secretary of Defense at the time, Cy Vance.

I was intimately involved in the events associated with the Gulf of Tonkin raid and the consequences of that raid with respect to our involvement. Following that, I participated in the conflict as a division G-3 and battalion and brigade commander of the infantry, of the 1st Infantry Division, so I saw the conflict from the battlefield.

After that, I had the opportunity as I just pointed out of participating in a great deal of the wind-down of that war and my book touches upon all of these things from the broadest perspective of the interest of the American people. I do hope that the Members of the committee will take the time to review it as at the perspective of one man who was there.

I make no bones about being somewhat concerned about the deliberations of this committee and I say that for several reasons. First, because I would regret if in any of these deliberations we added more anguish to the families of those who served our coun-

try so honorably in Vietnam and remain in the missing in action category. I think that would be a tragedy and I know the committee is very sensitive to that and I just add my own weight to that particular point. The second observation I would make is—

Chairman KERRY. Would you share with us a little more about what would do that?

General HAIG. Well, I think the suggestion without hard fact and information that there are people being withheld against their will, without appropriate evidence to support it would be a very serious mistake. I've been very close to Jack Vessey over the years as he's worked this problem. I've great confidence in him and I think he shares my view that there is a dangerous potential outcome of these hearings.

Chairman KERRY. I do not think anybody on the committee here has—I am not sure, I can speak for myself, but I do not believe that anybody on the committee has suggested that there is any evidence in front of the committee that somebody that we know of by name or specifically is alive and being held today.

General HAIG. All right, that is helpful. Then the second concern I have has to do with some observations that were made in the preceding panel and that is that the culprits in this dilemma that you face are in Hanoi, and if anything in these hearings would suggest that we are taking them off the hook for their duplicity, their culpability and their failure to abide by international agreements, that would be a historic tragedy and I think the committee must avoid that and I think you're all conscious of that as well.

The third point I would make is having listened to the last panel and despite your reassurances, Senator, I think there is a strong connotation of looking for some scapegoat. If you're looking for a scapegoat, I'll give you my own personal observation, having been involved in this conflict for so long, that there were terrible mistakes made, unconscionable mistakes, primarily in the early period of the war, before I went to Vietnam.

When the Nixon administration came in, the erosion of public and above all legislative support for anything we were doing had been seriously eroded. Had President Nixon acted immediately to do what he did ultimately in the spring of 1972 and again in Christmas of 1972 and in early 1973, I think the war would have ended and prisoners of war would have been returned without controversy or doubt and that there would have been an honorable extraction of the United States from an involvement that was begun wrongly and ended wrongly and tragically.

Having said those things, I would hope that as the committee goes on and dissects and bisects little pieces and scribbles and releases from the NSC, from State, some of which are blacked out that I've read, do not lose sight of the big picture and why we got into the mess we got into. If you can come out of this dedication to never letting it happen again in the future, then your deliberations would have been worth the salt.

As it turns out, I hope it does not become a politically motivated part of the quadrennial silly season in America and once in a while, from the leaks that I've seen from this committee, I would suggest that that may be the case.

Chairman KERRY. Is that it?

General HAIG. Yes, I've said my piece.

Chairman KERRY. Well, Mr. Secretary, thank you for coming and thank you for sharing your thoughts with us. Let me say to you that I am a little bit taken back and perhaps even a little bit stunned that you assert that we ought to go back and consider the whole mishmash. Frankly, we have been trying to avoid that. I am not quite sure what the relevancy is of some of the choices and decisions made in 1963, 1964, 1965, 1967, and so forth, to the issue of, once you had entered negotiations, whether or not you got all your prisoners back.

It seems to me we want to be careful. I would go back and reference Neil Sheehan's book and we can talk about early reporting from Vietnam and what he called the bright shining lie and we can have a huge debate about Vietnam. It has engulfed this Nation. It is not what we are here for. Now, if you can show me the relevancy to this decision we must make of whether or not somebody is alive today, whether or not they could be alive, were they alive in the 1980's or 1970's, did we know there were some folks there, and show me the relevancy of that earlier stuff to that, I would be happy to deliberate it.

General HAIG. Well, let me answer that, Senator, because it's a very important and a very good question. The point I'm trying to make is that when you ask a witness here at this table why President Nixon lied to the American people as to whether or not there were American prisoners held against their will or whether they were all dead or not, you have really asked some very, very difficult questions that are difficult to answer out of context and I heard a few answers out of context in the previous panel. Also there were some very good answers.

Chairman KERRY. Can you clarify for us?

General HAIG. Yes, the point I'm trying to make is that when you—what is the purpose of this hearing? Is your purpose to relieve families of the agony of what they've lived with for too long? Is your purpose to find out whether or not one or another public official may not have been as acute in his judgments at a difficult time than you would have liked him to have been in hindsight? What exactly is the purpose of this?

Chairman KERRY. Let me explain it to you, I would be happy to and it is a fair question and not only you, but any American ought to understand what we are doing here. I acknowledged in my opening statement and I acknowledge every day, it is a fine line in terms of trying to get at the truth here and not winding up saying, why did you do that or this, but that is the essence of what we have been charged to do.

There is a need to understand why or if a President did not tell the truth to the American people and that is fundamental to our constitutional system.

General HAIG. That's right and let's—incidentally, on that issue I was not in the White House at the time.

Chairman KERRY. I understand, but let me just finish.

General HAIG. But I think there was a differentiation between MIA and POW in the President's speech, if my memory—

Chairman KERRY. The President said all our prisoners of war are coming home. Nobody used the word MIA, but let me just finish.

General HAIG. But he was totally dissatisfied with the accounting of MIAs. I think that was the position. Now, I wasn't there so I'm not trying to defend myself, but rather an innocent who's not even here.

Chairman KERRY. Do you believe that the Vietnamese have given an full accounting?

General HAIG. Of course not.

Chairman KERRY. Then that is why we are here.

General HAIG. Well now, what are you going to do with that information? Are you going to bomb Hanoi?

Chairman KERRY. We are going to try to shed light on the decisionmaking process that has led us to this point 20 years later.

General HAIG. Well, that's why I also suggest that you ought to make this a little broader because if we're going to be looking for a decisionmaking process that's flawed or correct, or incorrect, we've got to look at this thing through the full scope of constraints that were applied to policymaking and that's well beyond the POW question.

Chairman KERRY. Mr. Secretary, let me just say to you that if you had been here, I am not sure that you were, I acknowledged and have acknowledged since day one of these hearings that Dr. Kissinger and Richard Nixon, and this Nation labored in very difficult circumstances. I would be a fool if I did not acknowledge that we were negotiating with very little leverage. Now there are a lot of reasons for why we got to where we were in 1972 and I know I do not need to educate you about them.

President Nixon won in 1968 on a peace platform and indeed, no sooner was he elected than he began withdrawing troops. Our withdrawal was forestalled in 1968. For 4 more years the war went on. More prisoners were created and finally, we negotiated with the recognition that the country was fed up and South Vietnam was to either stand alone or fall alone with enormous military support, I might add, from us. Billions of dollars, airplanes, guns, weapons and everything else. Now that is where we got to.

We are here 20 years later trying to understand in the dynamics of where we got to, whether or not we got our prisoners out or not. It was not Senator Kerry, or Kerrey or Smith, or anybody else who made the statements of 1972 that we were going to have the fullest possible accounting. That was our policy. It was not us who stated that we do not have all our prisoners back, that was in memos that your colleagues in Government created.

The families, however, knew this and for 20 years they have sought an honest accounting from us, so we are here today to do that and I am sure you are sympathetic to that. I would like to get on with the business of understanding.

General HAIG. I think our debate will go on forever, Senator.

Chairman KERRY. It is not a debate. Are we debating with the notion that we should have a full accounting?

General HAIG. I think that you cannot consider this POW question without a full and thorough grasp of the circumstances under which negotiations were conducted in 1972 and 1973.

Chairman KERRY. That is what we are here for.

General HAIG. I'm prepared to do that.

Chairman KERRY. Could you please tell us what the circumstances were that might have justified our not getting a full accounting in 1973?

General HAIG. Right, assuming that was the case, and I believe it was.

Chairman KERRY. You told me that we are here because we did not get a full accounting.

General HAIG. I believe that it was.

Chairman KERRY. You believe it was a full accounting?

General HAIG. No, I do not. I said that a few moments ago.

Chairman KERRY. What then were the circumstances of 1973?

General HAIG. Well, first let me start out by saying that in 1969, when I again resumed close contact at the policy level of this issue, we had an Administration that began a negotiating process with the North Vietnamese. They also began Vietnamization, which was a term conceived, driven and conceptualized by Mel Laird who's been before this committee and that process began very, very early on and withdrawals began in accordance with it, sometimes slowed up, sometimes expedited.

In that period of time, the efforts to negotiate for months and months in Paris by Dr. Kissinger were met with a straight arm. I think Win Lord said at the last hour, that the essence of that straight arm was a coalition government, the overthrow of the Thieu regime and circumstances that would have promoted an unbridled, continued presence of North Vietnamese forces in the south, which they denied even existed.

Now, that went on until the spring of 1972. At that time, I think the President's patience had run out completely and I think it was the consensus of those who advised President Nixon that Hanoi was simply not going to negotiate against the background of declining American domestic support for the war effort.

Threats from the legislature of the United States encompassed almost everything from "a date certain" withdrawal mandate to a total cutoff of the resources necessary to conduct that conflict. I happen to think that if anyone wants to look at some potentially very bad policymaking, they ought to investigate the legislature at that time and who took what position and why their contributions were deleterious to the interests of our POWs.

Having said that, it was at that time that the decision was made to do what no other President had done, bomb Hanoi, mine Haiphong, even against the threat that was believed by Dr. Kissinger and a number of others around President Nixon that the Soviets would cancel the summit which was so important in terms of world peace, including the Vietnam issue, to say nothing of the success of the presidency.

I was a strong advocate for that bombing. The minute it started, we began to pick up some signs that Hanoi may be willing to talk. More clearly, it was by August of that same summer that the suggestions came from Hanoi that they were indeed ready to seriously negotiate and that led up to that round in October which you've discussed in the committee.

During that round in October, for reasons which I suppose you could associate with any number of things, every concession was suddenly withdrawn and the President was forced again against

massive opposition in the Congress, in the press and within his own Administration. I may add, in the Executive Branch, State, Defense, to go ahead and he launched that bombing. It was in the wake of that bombing that Hanoi sent another message that they were ready to sit down and negotiate and that is when the peace treaty was formulated and the results which people prematurely celebrated, including the return of some POWs, was concluded.

The point I'm trying to make here is that that bombing was halted in January against the face of an impeachment vote in a returning Congress and the immediate cutoff of all resources for the conduct of the war. I for one told President Nixon at the time, let them impeach you and go out of office with your head high because you are right. Everybody else around the President said, you simply cannot do this. You're defeating your own purposes, so the bombing halted and the negotiations began at a time when Hanoi could see clearly that the Congress, the American people and the American psyche no longer had the stomach to do what it had to do.

So the risks were taken in an increasingly constrained environment to accept things which I frankly was quite skeptical about, which I think the negotiators convinced themselves were acceptable. You heard that in the period just previous to this session and I had difficulty with it, but I frankly could not conclude any other solution because military action was then out of the question.

I came back to the White House in May 1973. It was a month later that the legislature dictated the termination of all sanctions against Hanoi. That told Hanoi that no matter what they did, they could do it with impunity as far as the United States was concerned. I think it was one of the most mindless acts ever perpetrated by a Congress in this country and it had some support from the Executive Branch, incidentally.

Second, I think Win Lord said that we had four things that probably led to the belief that we could accept the risks associated with the agreement. One was that we were working with Moscow and China had broken with the Soviet Union contrary to the conventional logic here in Washington, China did not want us to lose in Vietnam. They did not want us to withdraw. They saw it as a Soviet-manipulated imperialistic war, which is precisely what it was, so that was one very important consideration. We felt we could pressure Moscow to reduce their level of support.

Second, we believed that for better or worse, if the Congress continued to support the level of military supply and equipment called for in the agreement, called for in every speech the President gave, that Saigon had a fighting chance. Now that was probably an unacceptable solution. I personally was very skeptical of it because of the continued presence of the North Vietnamese in the south and that incidentally was the key issue that bothered President Thieu.

Finally, as an American, it was inconceivable to me even at that late date, having been through all the agonies of this conflict, that the American Congress wouldn't support the President in taking vigorous action in the face of a blatant violation which ultimately occurred in 1975. As you know, we invited that by cutting off all the support to Saigon. Now these are the macro issues about which I feel very strongly and with which I was intimately involved. The

micro issues of the negotiations after January 1973, unfortunately I was not involved in.

Chairman KERRY. Well, the macro issues obviously bear on the dynamics of the negotiation. We have acknowledged that all along, Mr. Secretary. It would be naive of us not to acknowledge that. On the other hand, it is kind of hopeless to get into a debate about how the war by 1973 might have been fought and won and this is a war that began almost 10 years or 11 years earlier. It is not as if this country was not given quite an opportunity over time to win it. It was the longest war in American history.

General HAIG. No question, but let me tell you, if we had gone on with the bombing and the mining for another 60 to 90 days, we would have had a withdrawal of North Vietnamese forces from South Vietnam and the return, without question, of all of our POWs, if we had done it. Of course that's a big if.

Chairman KERRY. Mr. Secretary, there were many ifs and many propositions from Secretary McNamara who said it will be over in a few days, to so and so who said it will be over.

General HAIG. Oh, I heard all that.

Chairman KERRY. You remember the light at the end of the tunnel, that is why this is a fruitless debate for us. This is not where we should go with this. We should discuss in the context we found ourselves in, however miserable it was, however onerous to you as a general and a patriot and somebody who likes to win, and believe me, I tell you, three people here who wore the uniform like to win and we would have preferred it. I went over there to win.

General HAIG. You didn't come back that way.

Chairman KERRY. Well, a lot of reasons why, that is absolutely accurate, sir, absolutely accurate.

General HAIG. I'm not getting into that, that's another issue.

Chairman KERRY. Well, it is not, it is very relevant. I am happy to discuss it. That is exactly correct, I did not come back that way.

General HAIG. Well, if you're leaving this open for that kind of thing.

Chairman KERRY. But the debate cannot be about that, Mr. Secretary. The debate is about what happened in this country in our attempts to get our prisoners back and were families dealt with honestly, were the American people dealt with honestly. That is what we are here to find out. We are not here as I have said again and again to rehash the war, to renegotiate the agreement. We want to know what decisions were available to us and how we might have made choices to get them back.

Now, you said we did not get a full accounting. All we are trying to do is understand why we were not able to get that full accounting. Was there anything disingenuous in that process of not getting it? Were we lied to? Were families not told the truth? Was it inadvertent, was it simply impossible as a consequence of the circumstances you have described?

Now, I have taken up more than my time here, but I would ask you what it was that prevented us, once we knew that we did not have a full accounting, from going to the American people and raising their consciousness around that reality? Would people not have coalesced around the notion that they were not getting back Americans who were supposed to come home?

General HAIG. Well, the answer is all of the above, all of those issues that you've raised in in your question I think made a contribution, all of them. Of course we were lied to, but what was new about that? We knew that. You knew that.

Chairman KERRY. Was that OK?

General HAIG. You knew it in 1972 when you testified before the Foreign Relations Committee that you'd been in touch with the parties, meaning Hanoi and the Viet Cong, a myth.

Chairman KERRY. 1971.

General HAIG. 1971, and that you were calling for an immediate and unconditional withdrawal with the assurance that we'd get our prisoners back after we got out.

Chairman KERRY. No, that is not accurate, sir.

General HAIG. Well, I think I can read it.

Chairman KERRY. It was not accurate that it was without a process for a return of the prisoners. In fact, every statement we ever made was conditioned on return of the prisoners. It was always conditioned. I can quote you countless books and countless public statements. I will be happy to get 10 of them.

General HAIG. May I enter this into the record?

[Information referred to follows:]

before Senate Foreign
Relations Committee,
April 22, 1971

CONFIRMATION OF WITNESS

You said you wished to communicate. I can't imagine anyone communicating more eloquently than you did. I think it is extremely helpful and beneficial to the committee and the country to have you make such a statement.

You said you had been awake all night. I can see that you spent that time very well indeed. [Laughter.]

Perhaps that was the better part, better that you should be awake than otherwise.

PROPOSALS BEFORE COMMITTEE

You have said that the question before this committee and the Congress is really how to end the war. The resolutions about which we have been hearing testimony during the past several days, the sponsors of which are some members of this committee, are seeking the most practical way that we can find and, I believe, to do it at the earliest opportunity that we can. That is the purpose of these hearings and that is why you were brought here.

You have been very eloquent about the reasons why we should proceed as quickly as possible. Are you familiar with some of the proposals before this committee?

Mr. KERRY. Yes, I am, Senator.

The CHAIRMAN. Do you support or do you have any particular views about any one of them you wish to give the committee?

Mr. KERRY. My feeling, Senator, is undoubtedly this Congress, and I don't mean to sound pessimistic, but I do not believe that this Congress will, in fact, end the war as we would like to, which is immediately and unilaterally and, therefore, if I were to speak I would say we would set a date and the date obviously would be the earliest possible date. But I would like to say, in answering that, that I do not believe it is necessary to stall any longer. I have been to Paris. I have talked with both delegations at the peace talks, that is to say the Democratic Republic of Vietnam and the Provisional Revolutionary Government and of all eight of Madam Binh's points it has been stated time and time again, and was stated by Senator Vance Hartke when he returned from Paris, and it has been stated by many other officials of this Government, if the United States were to set a date for withdrawal the prisoners of war would be returned.

I think this negates very clearly the argument of the President that we have to maintain a presence in Vietnam, to use as a negotiating block for the return of those prisoners. The setting of a date will accomplish that.

As to the argument concerning the danger to our troops were we to withdraw or state that we would, they have also said many times in conjunction with that statement that all of our troops, the moment we set a date, will be given safe conduct out of Vietnam. The only other important point is that we allow the South Vietnamese people to determine their own future and that ostensibly is what we have been fighting for anyway.

I would, therefore, submit that the most expedient means of getting out of South Vietnam would be for the President of the United States to declare a cease-fire, to stop this blind commitment to a dictatorial regime, the Thieu-Ky-Khiem regime, accept a coalition regime which

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would represent all the political forces of the country which is in fact what a representative government is supposed to do and which is in fact what this Government here in this country purports to do, and pull the troops out without losing one more American, and still further without losing the South Vietnamese.

DESIRE TO DISENGAGE FROM VIETNAM

The CHAIRMAN. You seem to feel that there is still some doubt about the desire to disengage. I don't believe that is true. I believe there has been a tremendous change in the attitude of the people. As reflected in the Congress, they do wish to disengage and to bring the war to an end as soon as we can.

QUESTION IS HOW TO DISENGAGE

The question before us is how to do it. What is the best means that is most effective, taking into consideration the circumstances with which all governments are burdened? We have a precedent in this same country. The French had an experience, perhaps not traumatic as ours has been, but nevertheless they did make up their minds in the spring of 1964 and within a few weeks did bring it to a close. Some of us have thought that this is a precedent, from which we could learn, for ending such a war. I have personally advocated that this is the best procedure. It is a traditional rather classic procedure of how to end a war that could be called a stalemate, that neither side apparently has the capacity to end by military victory, and which apparently is going to go on for a long time. Speaking only for myself, this seems the more reasonable procedure.

I realize you want it immediately, but I think that procedure was about as immediate as any by which a country has ever succeeded in ending such a conflict or a similar conflict. Would that not appeal to you?

Mr. KERRY. Well, Senator, frankly it does not appeal to me if American men have to continue to die when they don't have to, particularly when it seems the Government of this country is more concerned with the legality of where men sleep than it is with the legality of where they drop bombs. [Applause.]

The CHAIRMAN. In the case of the French when they made up their mind to take the matter up at the conference in Geneva, they did. The first thing they did was to arrange a ceasefire and the killing did cease. Then it took, I think, two or three weeks to tidy up all the details regarding the withdrawal. Actually when they made up their mind to stop the war, they did have a ceasefire which is what you are recommending as the first step.

Mr. KERRY. Yes, sir; that is correct.

The CHAIRMAN. It did not drag on. They didn't continue to fight. They stopped the fighting by agreement when they went to Geneva and all the countries then directly involved participated in that agreement.

I don't wish to press you on the details. It is for the committee to determine the best means, but you have given most eloquently the reasons why we should proceed as early as we can. That is, of course, the purpose of the hearing.

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Chairman KERRY. If this is the debate you insist on.

General HAIG. Quoting from your April 22, 1971 Senate Foreign Relations Committee testimony, "My feeling, Senators, is undoubtedly this Congress and I don't mean to sound pessimistic, but I do not believe that this Congress will, in fact, end the war as we would like to, which is immediately and unilaterally and, therefore, if I would speak I would say we should set a date and the date obviously would be the earliest possible date. But I would say, in answering that that I do not believe it is necessary to stall any longer.

I have been to Paris, I have talked with both delegations at the peace talks, that is to say that the Democratic Republic of Vietnam and the Provisional Revolutionary Government and of all eight of Madam Binh's points, it has been stated time and time again, and was stated by Senator Vance Hartke when he returned from Paris, and it has been stated by many other officials of this Government, if the United States were to set a date for withdrawal the prisoners of war would be returned."

Chairman KERRY. May I say to you, Mr. Secretary, that is precisely what we did. It is exactly what Richard Nixon did, that is what you were part of.

General HAIG. I don't agree with that.

Chairman KERRY. I beg to differ with you, sir.

General HAIG. No.

Chairman KERRY. We set a date. We set a date for the complete withdrawal of troops and we set a process for the return of our prisoners.

General HAIG. Not at all, we did not do it that way at all.

Chairman KERRY. We set a specific—

General HAIG. We negotiated a solution under the pressure of American military power which was terminated, unfortunately, prematurely.

Chairman KERRY. That is precisely what I advocated on April 18, 1971 in Meet the Press, quote, the moment we set a date for withdrawal from South Vietnam, we will negotiate the return of prisoners. Our troops will be permitted to return to this country without a shot being fired. That was 1971. We could have done in 1971 what we wound up doing in 1973 and lot of names would not be on the wall today, sir.

General HAIG. Well, that's where you and I disagree.

Chairman KERRY. We can debate that. It is exactly what we did, General. Richard Nixon set a date and Richard Nixon supposedly negotiated the return of the prisoners.

General HAIG. I think you are totally wrong and my experience would suggest to me you are absolutely wrong.

Chairman KERRY. Well, tell me what we did. Tell me how did we get out?

General HAIG. We brought military power to bear on an intransigent enemy.

Chairman KERRY. How did we get out, sir?

General HAIG. Who refused to do anything.

Chairman KERRY. How did our troops come home?

General HAIG. They came home because we bombed Hanoi and mined Haiphong and they were afraid President Nixon might do more.

Chairman KERRY. Did we set a date for our troops to come home?

General HAIG. Yes, but you're lawyering me, Senator.

Chairman KERRY. Did we set a date?

General HAIG. Of course we did.

Chairman KERRY. That is exactly what I said.

General HAIG. After we sat down at the table.

Chairman KERRY. Did not the troops come home after we set a date?

General HAIG. With a request from Hanoi to rejoin the negotiation, very different than what you unilaterally recommended.

Chairman KERRY. Did our troops come home?

General HAIG. I hope all came home.

Chairman KERRY. Did our prisoners all come home?

General HAIG. I hope they did.

Chairman KERRY. But you think they did not?

General HAIG. I have never for a moment accepted assurances from Hanoi and I don't believe any President of the United States could ever do that, and that any evidence we ever get to the contrary must be investigated as it has been with the greatest care. I don't accept the thought that officials of the Government with whom I worked during my time would willingly have ever accepted any other solution on the withdrawal with our POWs and the inference that they have done otherwise is a disservice.

Chairman KERRY. Let me correct you again on something else. As a former Secretary of State, I am somewhat astonished you are not aware of this.

This is Dr. Kissinger, and these are the minutes of the meeting. And this is August 1, the date that was set. Quote Dr. Kissinger, No. 1 point. Dr. Kissinger interrupts the North Vietnamese translator, and this is what he proposes.

The withdrawal of all U.S. forces and other foreign forces allied with the government of Vietnam will be completed by August 1, 1972, provided that the final agreement, based on the principles in this statement, is signed by November 1. The terminal date for the United States and allied withdrawal will be advanced if the agreement is signed earlier.

This was tabled by Dr. Kissinger in 1971, exactly the moment that I suggested it. It was in secrecy. He denied they were doing it publicly, but it was done privately. The very thing that I suggested. I rest my case. Senator Smith?

Vice Chairman SMITH. It is kind of hard to get back to the mundane after that exchange. I guess somebody said something about the light at the end of the tunnel. It is a long tunnel.

I suppose that if I take my political lick here, if we had elected Barry Goldwater in 1964 there would have been a lot less names on the wall and we would have won the war.

General HAIG. I agree.

Vice Chairman SMITH. That is history, and do not disagree with your assessment of the conduct of the war. And I think those of us that fought in it would understand that since we could not understand it either. I remember in the Gulf of Tonkin during a bomb-

ing—some bombing raids off aircraft carriers, and we had Viet Cong out on the waters, and we really did not have anything on board to deal with them except huge nuclear—you know, we had nuclear missiles which we were not using.

So, you know, there are a lot of things about the war that bother us. And as you can see it is still there. It is a bitter war and a bitter aftermath. Before I give you a question, General, I think that what I sensed in your opening remarks may have been—and I can understand why, back in the early days when Congress was thwarting your efforts, or not in the early days but in the days when they were there, you felt, thwarting your efforts and I felt as well, in some ways, thwarting the efforts to end the war, putting pressure on those who would have liked to end it in an honorable way.

But this is not the same Congress. It might be the same party controlling it, but it is not the same Congress.

General HAIG. I hope you can assure me of that.

Vice Chairman SMITH. Well, speaking for myself as one Member of the committee, and I wrote the legislation to create the committee, the purpose here, I think, is to try to get a resolution; to try to get the truth as to what happened regarding these men. Now, the Congress of the United States has oversight responsibility in that. And I am not personally trying to cast any blame at all on anybody. I am simply trying to get the truth.

And I think what comes out is that the best information that our people had at the conclusion of the war from our intelligence people, CIA, DOD, was that there were prisoners that were unaccounted for at the time the accords were signed especially in Laos, but even some discrepancy cases in Vietnam and maybe more. And I do not think that has been explained to the American people.

Maybe these hearings should have been held 20 years ago, or certainly 15 years ago. It has never been explained to the American people and, I think, especially the families deserve an explanation as to what happened. That is all I am saying.

And I have a question that I want to ask. You have—let me see if I can find the date here. May 1986. It may have been on 20/20, but that is the information that I have, anyway. You said, in response to a question, and this is a quote, that a possible consequence of America's thirst to turn a page on Vietnam was leaving men behind.

And, you said, of course that was a possible consequence. But the concern was for the greater good. The return of the men who were ready, and there can be no denial about that, and to continue to pursue.

To return the men who were ready. Is there some greater good over and above POWs who may have been left behind. Is that what you are saying.

General HAIG. I hope that is not what you read. You have taken what I said out of context, because I never would accept the premise that we can leave people behind.

Vice Chairman SMITH. Well, that is why I am asking you.

General HAIG. Of course not. And let me ask another question, Senator. You know, a Yugoslav said to me the other day, he said, do you know what the Cold War was, General? I said, no, what was it? He said, it was a war you Americans refused to win and that

the Russians refused to lose. And I think history will confirm that. That wasn't too far off the mark.

Vice Chairman SMITH. This issue is, here, we did refuse to win. General HAIG. That's right.

Vice Chairman SMITH. And a lot of good people lost lives and limbs as a result of it, and a lot of people have had a lot of severe psychological damages, as you know, as a result of it. And it still lives on.

But I think if you are going to—and this is not challenging you. You would agree with this, but just to get it on the record. If you are going to ask young men and women to serve in the future, you have to give them and their families the assurances that we will seek all information we can.

Now, those answers are in Hanoi and in Vientiane. I do not doubt it at all, in what you said. But, you know, we hear comments about maybe we should normalize or maybe—you know, they are good guys, let us move on. And then we hear that they are duplicitous and that they are not being forthcoming. And I think the latter is the case.

But the question here for us is to try to determine why we simply ignored all of the intelligence that we had and made statements to the contrary that everybody was back. I mean, that is what happened.

Now, I am not saying that that was done in a manner that may—for example, let me see if I can explain what I mean. If there were two agreements, and I think there were; one with Vietnam and one with Laos. The only problem is the one with Laos we really did not get involved in. It was a side agreement and we did not get involved in it.

I can understand Watergate, political pressures, protests, Congress voting to cut off the money. So, the President might say, let us sign it, let us cut, and maybe this other agreement will be signed. We will get the prisoners back from Laos. But privately there was reference to prisoners in Laos, but publicly there was not. And, I think, families were misled by that. Maybe not deliberately, but I think they were misled by it. And that is my point.

General HAIG. Well, you know, I can't act as an apologist for statements that were made after January, and I won't attempt to do that, but I will make some observations. The first is, I don't believe Dr. Kissinger, or President Nixon, or anyone involved in these negotiations ever took a position that in their intellectual anguish they did not believe was going to improve the prospects of getting our prisoners out rather than impede that process.

Now, I believe that because I've worked with these men for 4 bloody years against a tide of public and legislative opinion that to me was mind-boggling, and remains that way. So I admit, I'm operating on a little bit of faith, but again I say, what can one say to a question like you asked unless they negotiated.

Now, you're going to have Dr. Kissinger here tomorrow, and I am absolutely confident that he'll answer your questions with all of the precision and rationality that I attribute to him. And that's quite a bit.

Vice Chairman SMITH. The American people, I believe, are a great people, and I think they will accept anything as long as they

are told the truth. And that is all we are asking. I agree with you. There could be 500 people in Vietnam and Laos. There could be none. But the point is, if we would just tell the American—the reason why the committee is in existence, the reason why you are here, and the reason why the debate is still raging is because the American people do not believe that their Government has told them the truth. That is not the first time that the U.S. Government has not told the truth to the American people. I could recite 25 things off the top of my head.

General HAIG. Well, golly, I've got a little trouble with the statement that the American people don't believe that the Government has told them the truth. I think we can create that problem, and we're in the process of trying to do it. And that's one of the reasons I'm so upset about some of the leaks out of this hearings.

But be that as it may, I don't see this as that kind of issue. I think the issue and the obligation we have is to the families, those who have paid the price. Not you and I who can sit here and pontificate until hell freezes over. And if we add to their agony without a finite solution for their problem, then I think we are being a little short sighted.

And second, let me tell you, the burden of proof is on this committee to find a piece of evidence which confirms that indeed this innuendo is a fact. And I haven't seen that. If you have, by God, I'll join you and march down Pennsylvania Avenue with you, but you haven't.

Vice Chairman SMITH. We just heard Secretary Schlesinger say he believed that people were left behind. We did not account for people. We had all of those in the intelligence community and the Defense Department—

General HAIG. Well, Jim Schlesinger is a wonderful friend, but did you ask him what is your proof?

Vice Chairman SMITH. Well, what is proof? Do you want somebody to walk out and say, here I am? Is that proof?

General HAIG. Somebody that can confirm undeniably, under oath, that they have fair evidence that Americans were left behind. And I am not aware of such evidence. I do know this. I know of no subject that's gotten more attention or the expenditure of more resources, not just in the Nixon years or in the Ford years, but also in the Carter and in the Reagan years, and with an increasing level of intensity which I welcomed. I welcome this, providing we don't create a cottage industry that preys off the minds, and the compassion, and the agonies of the families. I don't like that and I think it's wrong.

Vice Chairman SMITH. Do you think that's what this committee is doing?

General HAIG. No, but I think it risks supporting that process which has been underway in the country for a long time.

Vice Chairman SMITH. How about if you are wrong, and those who where there are people alive are right? Does that make the effort worth it?

General HAIG. Well, it depends on the level and degree of public exposure, and hoopla, and the expenditure of funds should be associated directly to the amount of evidence that one has.

Vice Chairman SMITH. Well, I will yield in just a second. You know, again, we get into these definitions of hard evidence, and iron-clad evidence, and evidence. You know, not to editorialize on it at all, just to say that we have got hundreds of live sighting reports that have not been all debunked. We have got some other types of intelligence which we will be getting into in a couple of weeks.

I mean, where is the proof that the men we did know were alive are dead? Where is that proof? Why do you not put the same burden on that? In other words, where are they?

General HAIG. Well, the same suspicion I have had I have put on another foot. And that is that the enemy that we fought cared nothing about the lives of human beings, including their own. And I saw it on the battlefield, as you did.

Vice Chairman SMITH. I agree.

General HAIG. To me they are not going to risk, at this juncture in their history, the retention of Americans against their will because the risks of being uncovered are too great for them. Now, would that have been true in 1973? I doubt it, because at that time they knew the Americans were going to withdraw, and they were going to have their cake and eat it too. And keeping POWs might have been to some advantage in order to leverage us for additional money to rebuild their country. And if there were people held at that time, I would suggest that that was probably the motive.

But it would also seem to me, Senator, after 20 years of investigation, it just seems to me that had there been a case like that, we would have had something harder than what we have today. I give great credit to the CIA, to the DIA, who have been the primary receptacles of this problem. Secretaries of Defense of all parties, they've done it. I've known—I've worked with them.

It doesn't mean it cannot be true. I'd be the last to say that. It doesn't mean that you might not turn up evidence next week. All I'm saying is, be careful about impugning the motives of public officials who fought so hard, and so long, and so patriotically to do what they did. And I am not giving a mea culpa for myself, because I wasn't involved. And let me tell you, if they had followed my advice, we wouldn't be here today.

Vice Chairman SMITH. I will yield. Senator Kerrey?

Senator KERREY. Well, I damn near was not here today.

General HAIG. I join that too, because I got hit a few times myself.

Senator KERREY. Mr. Secretary, let me first of all deal with your assertion that we, perhaps, are not being balanced enough in our regard to the North Vietnamese—today, the Vietnamese Government. I have never suffered under the delusion that they would tell the truth. I have never suffered under the illusion that, in fact, current negotiations with the Vietnamese Government would be terribly productive in getting a full accounting of remaining POWs and MIAs. I have never suffered under the illusion.

In fact, I am rather surprised, in looking at the negotiations that occurred at the time, that a representation made by the North Vietnamese—do not worry, we will take care of Laos—was all that was required to get the Americans to say, OK, we will accept your representation that that full accounting in Laos will occur as a side agreement.

I mean, it was not me, General, that was negotiating at the time. General HAIG. Or me, thank God.

Senator KERREY. Well, you were somewhere closer to it than I was. I mean, you were a member of Dr. Kissinger's staff for 18 months, from 1969 until late 1970.

General HAIG. Oh, more than that. Until January 1973, but really until October 1972.

Senator KERREY. It is clear that on August 16, 1971, that the United States agreed with the Democratic Republic of Vietnam, North Vietnam—it is clear that on the August 16, 1971 we agreed that an exchange of lists was all that was required on the day that we signed the agreement. Now, I am the one that is surprised that we agreed to it. The question that we have had is as to why you trusted them, not as to why we. I, personally, do not trust the government of Vietnam today, nor certainly then.

And let me also deal with one the questions that you ask as to why this committee is doing this. This committee may never get to the bottom of it. It may feel as if we are looking for a scapegoat, since we are looking in your direction from time to time.

General HAIG. Not mine.

Senator KERREY. Oh, yes we are.

General HAIG. Oh, I'm glad to hear that. Now I'll be twice as offensive. Now, let me answer your speech.

Senator KERREY. No, let me finish this statement, with all due respect, Mr. Secretary. I mean, I do not have you in my sights or anything like that.

General HAIG. I hope not, because you may have a crooked barrel.

Senator KERREY. Well, we will see, will we not? I find myself, nonetheless, listening to you asking why this committee is formed and what it is that we are trying to do, and reach the conclusion that though we may never get to the bottom of it—because it is going to be rather difficult for us to unravel all the details and, by the way, provide the broad context because the context kept changing. The context was different in 1968 than it was 1972. It kept changing. It is different today than it was 20 years ago. We may never clearly get to the bottom of it.

But the one service this committee has performed, I believe admirably, is to provide the American people with the information upon which they can make the decision. As I said, it does not surprise me that the North Vietnamese would either lie to their people and to us, or withhold information from their people or from us.

But it seems to me that it is reasonable for me to conclude that I should have a higher standard for our own Government. And thus, the release of the information, redacted and carefully examined—the decision by President Bush to release that information, pressured by this committee to do so, I think has performed a very valuable service even though we may never get, as I said, to the bottom of it.

I must say, though, and then I will let you jump in and respond—I must say that had that information been provided in 1973—had we just said to the American people, here are the facts,

here is what we know and what we do not know, I think the outcome also would have been much different over the next 19 years.

General HAIG. Well, Senator, first let me suggest to you I did not say in my comments what you said I suggested. I said the committee must be very, very wary, must be very careful to avoid giving Hanoi a sense of support for their duplicity by trying to suggest that the problems rested here in Washington and not in Hanoi, and that's important.

I said that the committee must avoid raising the hopes of families yet again. And at this point it can't be hopes, it can be nothing but anguish and agony, that there are POWs being held against their will, and that's a very important thing.

Third, I made the point, and you just made it for me, that you cannot talk about Dr. Kissinger or President Nixon that, or even Al Haig, who probably left the NSC because I was uncomfortable about the peace accords and who's not known as somebody who goes along with things he doesn't like, I left President Reagan because he was doing things I didn't like. He didn't fire me, I left him. Now I hope I have just been as frank with this committee.

What I'm telling you is you have to avoid this, and I'm a man that knows something about Vietnam and the issues, and I'm reading the press and the leaks coming out of this committee in Time Magazine and elsewhere that suggest that you're on a headhunting mission against Dr. Kissinger, President Nixon, or perhaps Al Haig. And if you are, I am appalled that the committee would assume such a role.

Chairman KERRY. Well, has there been anything today, in defense of this committee, anything that suggests that that is the way today has been conducted?

General HAIG. I just heard some.

Chairman KERRY. Please.

General HAIG. You said I was in your sights, and I tell you be careful it doesn't have a hairpin barrel.

Senator KERREY. Well, I apologize, Mr. Secretary, that you were on Dr. Kissinger's staff and that you were involved. We are charged with responsibility for examining the record. And you, yourself, Mr. Secretary, you, yourself, directed this committee to examine the larger context.

General HAIG. Yes.

Senator KERREY. And now, when we examine the larger context, because it includes you, you get defensive.

General HAIG. Oh, no. No, no.

Senator KERREY. Oh yes you did, Mr. Secretary.

General HAIG. No, no. Not at all.

Senator KERREY. With all due respect—

General HAIG. Not at all.

Senator KERREY [continuing]. You became defensive.

I am not suggesting that you were in the cross-hairs of my sight. I am not saying that somehow I am going to get you.

General HAIG. Well, you're reading—

Senator KERREY. I am examining.

General HAIG. You're reading those things, and you just read that to me and I heard it. And let's look at the record. You copied

it. You know what the record will say. And if you didn't say it, then I'm wrong. But I think you did.

Be that as it may, it's irrelevant. It has nothing to do with the broader issues. What I'm saying is be sure you know the constraints that existed, because it's my personal judgment, maybe wrong, maybe naive, that Henry Kissinger and Richard Nixon never made a decision that they didn't think, probably with some minor exception, was not dedicated to the proposition that we want to get our prisoners out, all of them out, as quickly as possible. And I believe that. So that's my contribution to your deliberation.

Senator KERREY. Let me ask you two quick questions here, because I would like to get to both the larger context and some idea, as well, of the facts in that era. In your view, would the United States have signed the accords in 1973 had Thieu continued, even after the December bombing, had Thieu said we are not going to sign these accords even after concessions have been made on the part of the North as a consequence of the December bombings? In your opinion, would the United States signed anyway?

General HAIG. I can't say that because as you know, if you look at the record, we did tell President Thieu that we were going with him or without him. And unfortunately, I had the horrible onus of having to bear that message. And I did.

Senator KERREY. I was rather amused, in fact, to see that to get the North Vietnamese to move we would drop 100,000 tons of bombs and to get South Vietnam to move we sent you. Apparently they regarded you with as great a force. I mean, it seems to me that in 1973 that there was a great deal of public movement. You have said it was Congress. There was a great deal of public movement to end it—the war—and that the ending of the war—the question that I am trying to get at, the larger context that I am trying to get at, whether it is Congress, whether it is the people themselves, it seems to me that the number one objective at that particular time was to end it.

General HAIG. It's a very difficult thing to say, Senator. I mean, I lived in this town a few months ago, as you did, when President Bush was faced with overwhelming opposition on what he did in Kuwait, even from his Republican colleagues. And he went to the American people. He used the bully pulpit, and in poll after poll they supported the President. And he finally prevailed up here by I think one or two votes. And I remember testifying before the Foreign Relations Committee. There wasn't even a Republican in the room, which appalled me, and the only ones that were really there were those that opposed what the President was doing. I ask you to relook at that testimony. I think I was right in what I said.

But be that as it may, Presidents have to lead. I happen to think the legislature in America today is somewhat out of hand. It's out of hand because it has too many staffers, up from 1,100 to twenty-some-thousand today; too many committees and subcommittees, and I would wish that every cut you impose on the Pentagon you would impose a comparable cut on your own staffs and your own committees by the same percentage.

Now, can I answer the question had Nixon gone to the people at that time and said hey, these are the facts. I know he did it on occasion after occasion and he'd get the support and then it would go

down. By January, after the Christmas bombing, and that was before Watergate really became an issue, it would be a very tight call. Most of his advisors said you could not do it. Most of them said that. They were all for the termination of the bombing. I was the only one by the President who said keep it up until they impeach you. Call their number.

I also gave the same advice to President Gerry Ford. This advice was to come up here in 1975 when those accords were violated in ways that no one could question, and I said go up to the Hill and tell them you're going to bomb Hanoi and start it all over again, or you're going to lose Vietnam. He felt that he could not get the support on the Hill. He had a very good feel for the attitudes up here. He was a product of this body. I think had he done it he would have had a second term.

That's the difference between a leader and a follower. And I don't mean to suggest that he's a follower. He was a very fine President. But on that one, I think—maybe he had better judgment than I do.

Chairman KERRY. Mr. Secretary, I do not know where all this staff money is going because I have been losing staff for the last few years.

General HAIG. God, I'm glad to hear that.

Chairman KERRY. Let me read the following to you, and assume, in effect, you were on, I guess, Dr. Kissinger's staff on this particular date. This is May 10, 1972.

General HAIG. Yes.

Chairman KERRY. On May 10, 1972, Commander Henry L. Blackburn, Jr., and his radar intercept operator Lieutenant Rudeloff, were the lead F-4J in a flight of two aircraft on a combat patrol over Haiphong Province. Their aircraft was reported by their wing man as having been hit by hostile antiaircraft fire, and both crewmen ejected with two good chutes seen. A 5- to 10-second beeper was heard, but no search and rescue was possible. Both airmen were declared missing in action.

U.S. intelligence later received a report from a Vietnam People's Army POW describing the sighting of two American pilots in Haiphong District, which was possible correlated to a sighting of this crew.

Lieutenant Rudeloff was captured alive and returned during Operation Homecoming. He described himself and Commander Blackburn on the commander's order. Lieutenant Rudeloff was blinded by an explosion near their aircraft and never saw Commander Blackburn either in his parachute or on the ground.

After capture, he was taken to Haiphong city and imprisoned in a military installation. He heard someone brought into an adjacent room, heard mumbled voices and then a slapping sound. He believed it highly likely that Commander Blackburn was the person brought into the room next to his.

In August 1972, Lieutenant Rudeloff was told by a guard that Commander Blackburn had been captured alive but later committed suicide. Lieutenant Rudeloff did not believe this.

One returning POW stated he saw Commander Blackburn's name carved into a window sill at a prison for U.S. POWs. This timeframe compares favorably with the time Commander Black-

burn was captured. Another returning POW believed he saw Commander Blackburn's name written on a prison wall, but he knew no one who ever actually saw or heard specific information he was seen alive.

He was declared dead, body not recovered in March 1980.

So in 1972, you are sitting there with this information about this man. In 1973, you have a peace treaty but you do not find out anything about this guy. He does not come home. You are left with information where his wing—his copilot says I think he was being slapped around in the cell next to me. They told me they captured him. They said he died. I do not know.

Now, that is what we are supposed to get a full accounting of, correct?

General HAIG. I would think so. I would think so.

Chairman KERRY. I mean, that is the center of what we are here for, is it not?

General HAIG. Oh, I can't answer that question. You'll have to answer that, Senator.

Chairman KERRY. Well, I will answer it and say yes, it is, to find out what happened to people like—

General HAIG. Good. I'll read your press releases with more intensity than heretofore.

Chairman KERRY. So my question to you is, in 1973, if you are faced with information about this person, do you not have a responsibility to the families, to the Nation, and most of all to Harry Blackburn, to find out from the Vietnamese what happened to him—at that point in time, 1973.

General HAIG. I would think so.

Chairman KERRY. The issue before this committee is why did that not happen? Why did we not raise a ruckus about it?

General HAIG. Well, I don't think it was ever brought to my attention, and I am below Mr. Kissinger, although I was not negotiating.

Chairman KERRY. Well, Mr. Kissinger knew about these cases.

General HAIG. Oh, did he?

Chairman KERRY. Because he apparently took these cases to the Vietnamese, at least 20 of them.

General HAIG. Well, good. Then he did what I hoped he would have done.

Chairman KERRY. I beg your pardon?

General HAIG. Then he did what I hoped he would have done.

Chairman KERRY. Well, there was never any follow-up, Mr. Secretary. That is the issue. It just sort of was dropped. The President said all our POWs were home. We have families saying no, they are not.

General HAIG. Again, I think—I get a little disturbed about this POWs all dead or all home. Remember, there was a—there's a semantic problem here. There were a number of people who were MIAs, and I think—if my memory—I haven't checked it, but if my memory is correct, every time he talked about POWs he also cited the unsatisfactory information we had on MIAs.

Chairman KERRY. That is not accurate, sir.

General HAIG. Well, I think he did.

Chairman KERRY. In his speech to the Nation in March, he did not. But he referred only to POWs.

Now, I want to be certain that you understand, I am not arguing with you about the need to be very careful here. I have been arguing that for months. We indeed need to be very careful. I am convinced that among this body of cases where we do not have answers, there is a sufficient amount of evidence to raise very serious doubts about the survivability of a particular individual. So even though they may appear on a list of question marks, a rational, reasonable person looking at it would have very serious doubts whether they survived.

I acknowledge that. And so will the committee. But there is also a group of people about whom it is very hard to have those kinds of doubts. I mean, the family member of one of them is sitting right here in this hall now, a fellow who was lost in Laos. And the evidence that he landed, that he was safe, that he was alive is so solid that the only question is what happened to him. Now, there are a number of those cases.

General HAIG. Oh, I think some of your witnesses have suggested what probably happened to them.

Chairman KERRY. But a suggestion is not a full and thorough accounting, is it?

General HAIG. Well, I hope you're not suggesting that one of the witnesses you've brought in here is going to be able to tell you that.

Chairman KERRY. You really do not like being here, do you. And you do not really want to—you really want to deal with this.

General HAIG. I don't like the purpose of this hearing. I made that clear at the beginning. I am very, very squeamish about it. And I'll tell you why, because I don't believe I ever would have tolerated for 30 seconds anyone that would have wilfully and consciously permitted one of our young people to stay incarcerated one moment longer than they had to. And you know, when you put that against the backdrop of the kinds of restraints that the President was facing, I just have a hard time understanding what we are really going to derive from this taxpayer-funded effort.

I may prove to be wrong, and I hope I am, and I'll be the first to apologize.

Chairman KERRY. Well, Mr. Secretary, I do not want to have to have an apology from you. You have had a distinguished career. That is not what we are looking for. What we are looking for is help to understand this.

You know, none of us are comfortable with the notion that 20 years later we have to be here to have to ask these questions. But we are here because every single building in America flies a flag reminding us of our obligation, because families have persisted against great odds to keep this alive, because individuals have persisted to say I do not have an answer.

I might say to you that if I were one of those service people who had been alive at some point in time or was even today, I would want to know that people were, in fact, trying to find the answer.

So we are keeping faith with people in uniform. You, above all, should understand that.

You do not believe we are doing that?

General HAIG. Oh, I don't think I came here with the feeling that you are trying to be counterproductive, necessarily. I do think that some of the public releases that have been attributed to the staff here, and—

Chairman KERRY. Mr. Secretary, you are learned enough and experienced enough to know how the press works. There are no releases from this committee. I was appalled by what I read in Time Magazine. And Dr. Kissinger will find a committee that will ask tough questions but not unfair ones, and there will be nothing in the tone or approach of this committee—there has been nothing today. In fact, you are the first witness to appear before this committee in the entire time this committee has existed for over—for almost a year now, you are the first witness to challenge this committee in the way that it has been challenged today.

General HAIG. You may hear it tomorrow.

Chairman KERRY. Then we will hear it tomorrow, if that is the case.

General HAIG. Well, I'm glad to hear that, because then I won't feel I'm a pioneer.

Nobody is questioning or impugning the motives of the committee.

Chairman KERRY. Let me ask you a few questions, if I may, so the record can hopefully be a little more beneficial to the committee than it may be to this point.

During your deposition you indicated that you were involved sporadically over the period of the negotiations.

General HAIG. That's right.

Chairman KERRY. Were you involved in the meetings that led up to the October 1972 agreements?

General HAIG. In October, yes.

Chairman KERRY. What was your role in the negotiating process at that point in time?

General HAIG. I was alongside Dr. Kissinger at the negotiating table for almost all of the sessions.

Chairman KERRY. At that point in time, do you feel you had a solid grasp of what our position was and how it was evolving?

General HAIG. Yes, in many respects. Probably not the POW question as it ultimately was resolved. My main focus and concern was the presence of the North Vietnamese forces in the South, and the associated solutions for Cambodia and Laos. But I did sit there and I heard the deliberations.

Chairman KERRY. And is it your sense that the negotiations had travelled a route that we were less able or more able in October 1972 to get what we were seeking than we would have been, say, in 1969, 1970?

General HAIG. Yes.

Chairman KERRY. Which, less able or more able?

General HAIG. Far more able.

Chairman KERRY. Far more able.

General HAIG. Right.

Chairman KERRY. What are the ingredients that you think created that, the Vietnamization?

General HAIG. The first time in the conduct of the war that real power was—national power was applied against Hanoi, and an

eroding situation vis-a-vis the uncertainties of China and the detente dialog with the Soviet Union, which was—I think led everybody involved to believe that if we could get Moscow, in the interest of detente, to stop supporting the insurgency, that Hanoi would be more constrained than it had been heretofore.

Chairman KERRY. So in point of fact, a critical turning point in really empowering our negotiating capacity, or at least movement, was Dr. Kissinger's visit to Moscow and his discussions with Brezhnev. Is that accurate?

General HAIG. No, no, no. I'd say that was our perception, and possibly Hanoi's perception. Another thing that, at that juncture, might have influenced Hanoi was discussed earlier, and that is that they may have assumed by then that Nixon was going to be elected, reelected. And that they were always uncertain about him. He kept them in doubt, I think wisely, unpredictable.

I think all of those things gave us a great—and we had the spring bombing and mining, you'll recall.

Chairman KERRY. Correct, I understand.

General HAIG. And all of these things, I think, garnered their attention in ways that heretofore had not been garnered. And certainly by the fall—

Chairman KERRY. But the fact is that when Dr. Kissinger went to Moscow, he tabled at that time a major shift in our position. And our position up until then had been that they had to withdraw, there had to be a withdrawal from South Vietnam of North Vietnam's troops.

But this was the first time, in his meeting with Brezhnev, that he suggested that, in fact, the North Vietnamese troops would not be accountable with the exception of the 30 to 40,000 that came in in the offensive in 1972, fair enough? So that was a shift in our position; is that correct?

General HAIG. Yes. And if you look at our position, it was constantly being driven to more and more concessions on our part, as a result of the eroding popular base here at home, not as a result of the demeanor of the negotiating partner.

Chairman KERRY. Now did we ever demand—But did we ever demand from them, or take a position that sought a return of POWs prior to the end of the complete withdrawal, or some process of accountability ahead of time?

General HAIG. Well that would have been my position beyond a shadow of a doubt, and I think it was Kissinger's position in the initial negotiations.

Chairman KERRY. What changed that, then? You say—if we got stronger and if we were in a better negotiating position in 1972 than earlier, why did we go to a lesser demand.

General HAIG. There are ranges of stronger. Stronger in the context of Hanoi vis-a-vis your question originally, 1969, 1970. Much stronger, because we had some credibility having dropped some ordnance on Hanoi, and having closed off their supply route from Moscow.

Chairman KERRY. Well I accept that, but why would we not, then, have gone for the stronger position with respect to POWs, which you say we wanted?

General HAIG. Well, because of the climate here at home, unquestionably. A growing, mounting opposition in the Congress with date-certain proposals coming. I mean there was hardly a day I went to the White House when we didn't have to defeat a resolution of that kind.

Chairman KERRY. Well are you suggesting that the Congress would have ratified leaving some prisoners behind?

General HAIG. Of course not.

Chairman KERRY. Well why were they never told that there might be some there?

General HAIG. Well I think—you know, I have to leave this to Dr. Kissinger. But I think he came up here and testified repeatedly during the spring, and outlined to the Congress in many instances the problems we were having.

Chairman KERRY. No, sir.

General HAIG. No, I leave that to him, but that's my recollection.

Chairman KERRY. Well it is not our recollection. If it is, I do not have the record of that.

General HAIG. Well I suggest you get his testimony from the period of the peace treaty until he left office.

Chairman KERRY. The negotiating record shows, obviously, and this has been a point of some discussion today, that there was great difficulty in getting a formal written assurance about the return of prisoners from Laos and Cambodia.

That formal agreement with respect to Laos and Cambodia, how did it fit in terms of the bottom line that we were seeking from Le Duc Tho and the North Vietnamese?

General HAIG. Well I think I'd make two points with respect to both Laos and Cambodia. Of course we were negotiating, and I'm speaking for Dr. Kissinger and I think he can reinforce whatever I'm saying and make it far more detailed for you. But it was very clear that Hanoi, as a matter of public record, the very position held by Hanoi was that they were not in Laos and that Laos was a free and sovereign country, and that they were not in Cambodia. They were, but that was a position they took.

So, again, I would emphasize that Kissinger and the President were working against a timetable of unilateral withdrawal mandated by the Congress versus a negotiated settlement in which a reasonable chance could be preserved for Saigon to survive, to get our prisoners out, and to have some semblance of honor as the residue of our involvement and sacrifice.

Chairman KERRY. That was not so painful, was it, those questions.

General HAIG. It was the most painful thing I've ever been through, and I've been through some painful things.

Chairman KERRY. Well let me just say, Mr. Secretary, that you obviously have great residual anger at the Congress and at the outcome of the war. And I do not blame you; there are a lot of people in the country who do.

But I might just say to you that the process of withdrawal was a decision made by an awful lot of people on the basis of their policy decisions, and recommended by a lot of generals and others who said this cannot go on.

General HAIG. Senator, please.

Chairman KERRY. In fact Dr. Kissinger himself, prior to becoming National Security Advisor, said we had to get out.

General HAIG. Do not let my contrived outrage this afternoon suggest to you for a moment that I believe that the Congress of the United States brought about the catastrophe that was our involvement in Southeast Asia.

Chairman KERRY. Well, I am glad to hear that.

General HAIG. I would say the same thing about the American press. I've heard military guys going around and saying the press lost the war. Let me tell you, neither the Congress nor the press lost the war. Bad policy lost the war.

Now if I have any point of disagreement with either the press or the Congress, it is that the Members, as a total group, never understood why it was bad policy. They drew all the wrong conclusions from a very unsuccessful set of policies. It started in the Kennedy years and carried on with a vengeance in the Johnson administration.

Chairman KERRY. Correct. Well I am glad to hear you say that. It is an honest statement, and I think we all agree with that. And I only harken to the fact that the withdrawal really was set and established in 1969 by our new President, who—and it occurred, incidentally, many years before the Congress started imposing restrictions. The restrictions came after the frustrations of the continuation.

The other comment I make to you is Secretary Kissinger did not testify when he was National Security Advisor. He refused to because of executive privilege. He did not testify until I think it was July, when he became Secretary of State.

Senator Smith.

Vice Chairman SMITH. I think I have—I do not think that is exactly accurate, but I will come right to that in a second.

I want to say I have kind of enjoyed the dialog. I mean I like you, I respect your politics, and I also respect your military prowess.

General HAIG. You didn't vote for me.

Vice Chairman SMITH. And what you would have done. How do you know?

[Laughter.]

Vice Chairman SMITH. You do not know. See, that is one of the great things about America.

General HAIG. I'm only teasing.

Vice Chairman SMITH. But I just want to respond to a couple of things. If bad policy lost the war, even worse policy made—if people were left behind, the policy is even worse. And I am not suggesting that at all. And, you know, each Senator has to speak for his or herself on that.

But let me just, in reference to what you said about Secretary Kissinger, on September 7, 1973 Kissinger had confirmation hearings, ironically, for Secretary of State. He was asked by Senator Church how many of the 1,300 MIAs have been accounted for to date.

Now bear in mind, this is after the accords and long after the peace with honor and all the POWs are home and everything. These are the kind of comments that concern me in terms of just what the truth was, and let me just read it into the record.

Kissinger said in response to that question: I do not believe any of them have been accounted for adequately, referring to POWs. It has been one of the unsatisfactory aspects of the implementation of the agreement.

When I was in Hanoi in February, I brought some 80 files of individuals whom we had reason to believe had been captured or were in some prisoner group. The North Vietnamese told us they would make an immediate investigation. So far, we have not had any results of that, not in Laos. And actually, we have more reason for concern in Laos because the ratio of prisoners to those that we have reason to believe parachuted is smaller than it is in any other part of this area.

But the answer to your question, Senator, unfortunately, is that we are extremely dissatisfied with the results of the implementation of that part of that agreement, and that is one of the reasons why we cannot proceed in certain other areas such as economic aid negotiation.

Now that is a very honest statement, I believe. But, you know, I think that if the intention here was to sign an agreement and hopefully get it implemented in terms of what may happen with the POWs, maybe it did not work out.

I mean armchair, Monday morning quarterbacking is real easy. But that is not what I am trying to do. I think what I am trying to do is establish what did happen. And if, in fact, we know these things, it makes it easier for somebody, hopefully—it is not our responsibility to negotiate, it is the Executive Branch of Government's responsibility to negotiate—to go back and try to find answers to what happened to these people.

I mean I think that is really the issue, as I see it. I do not know if—you are welcome to respond to that. If not, I just have one more point.

General HAIG. I'll make an observation. I'm not—again, when I put my cautionary remarks at the outset of this hearing, what I was saying is avoid this. I didn't say you had done it. I think there's a very high risk that you might do it if you don't handle these hearings correctly and the subsequent reports that come out of it.

You know I've already commented on getting control of staffs who brief the press after sessions—on this. I'm not naive. I've lived in Washington for a number of years; that's the name of the game. But it's usually by some little guys trying to prove to a press guy he knows more than he's entitled to know, and he probably knows very little of anything.

All I'm saying is as a witness at this committee who knows something about Vietnam, I'm just saying I think it's important you avoid these pitfalls. I don't say you're guilty of them; I hope and pray to God you're not. And I think if you shed some light on a subject that has anguished the American people and above all the families, and you really do that, then, by God, more power to you.

Vice Chairman SMITH. One of my staff just informed me—this may surprise you General—that you had a dinner at his home in Manchester, NH, in 1987 when you were running for President. So some of the staff you want to cut were supporting you, so I just want to point that out to you.

General HAIG. By God, save him, take care of him, he's an endangered species.

Vice Chairman SMITH. I could not resist that.

I want to jump to 1981 for a final question. You were Secretary of State at the time, and this was your early months of the Reagan administration. You probably have read that—there have been some comments in the press and some information has come to the attention of the committee about the accusations of an offer by the Vietnamese regarding prisoners.

Do you know anything about that? Do you have any comment on that, any information that you would have? Did you hear any scuttlebutt about it?

General HAIG. Are you talking about—

Vice Chairman SMITH. 1981, January, February, March.

General HAIG. An alleged meeting in the Oval Office that Dick Allen testified to here and then went home and checked his files and found out it wasn't 1981, it was 1985 when he was a private citizen. And that the people that he had met with were—subsequently had a cloud on their credibility.

That's all I know about it, because I read it in the press. And I saw Mr. Allen's name associated with it. And I called him. I said what the hell, if you were at that meeting I can tell you, son, I wasn't. I never heard of such an outrage.

And, you know, my position on paying ransom is very well known for many many years, especially in the Reagan administration where I was absolutely, vehemently, and unalterably opposed to it. And I remain that way, and I never would have done it.

Vice Chairman SMITH. Well the alleged comments about the meeting were that the President responded that he would not pay ransom, but that is not the issue. The issue was was there an offer from the Vietnamese to the new Administration?

General HAIG. No, not to my knowledge. And the only guy who gave any veracity to that report, if my information is correct, was Dick Allen and he's now corrected the record, and I think in writing to the committee. He told me he had.

Vice Chairman SMITH. Yes, he did recant what he said.

General HAIG. So that's all I know about it. But, again, let me say if I had heard that in 1981, I would have again recommended we resume the bombing of Hanoi because they're holding prisoners in violation of our accords, and take it to the American people and let the chips fall where they may. That would have been my position.

Vice Chairman SMITH. Senator Kerrey, do you want more time? What time do you have to leave, General?

General HAIG. At 6 p.m. Ten minutes.

Vice Chairman SMITH. You have time, Senator.

Senator KERREY. Mr. Secretary, to again kind of review, I am going to draw a bead on you one more time in a nonthreatening fashion, I hope. We are trying to accomplish a number of objectives. The first one is to try and get as much information as possible from people that we can without violating the national security interest. And I think the committee has done an awfully good job of that.

An awful lot of that information will be analyzed by other people. We continue to process and move it into the nonsecured fashion, which I think is terribly useful. And, as I said before, had it been done earlier, although hindsight is a lot easier to evaluate those things. Had it been done earlier, I think it would have been an awful lot easier, first of all, for the families to rest easier. But I think as well for the American people to have the information upon which they might have supported Jerry Ford in 1975, or might have supported stronger actions later as well.

The second objective that we have got is one I would like to talk to you about now, which is we have narrowed the cases from 2,200 down to 135 or so where there are discrepancies. And General Vessey and his organization is working on that. What I would like to do is talk to you a little bit about how you think the U.S. Government ought to approach, and how we as representative of the people, ought to approach that problem. It seems to me that, as you might gather—it seems to me that the more information that we drive into the public arena the better off we are going to be, first of all.

The second part is the more difficult one. That is dealing with the government of Vietnam itself. I would make the observation, again with hindsight, that when we stated our objectives to be in the 1970's that we wanted to get our military out. And you, in your chapter—I did not read the whole chapter, but I managed to read the first four or five paragraphs of Steel And Mush.

You state in the beginning of that that the President's objective in 1969 was to end the war, and hoped to be able to do it in a year. And it seems to me as a part of that the desire was to get the American military out—to get the American military forces out of Vietnam. And the second objective stated by the President was to bring our POWs home. The third was to cease-fire. The fourth was self-determination of the South Vietnamese people.

I do not represent that it was necessarily in that order, but it was stated often enough both in the negotiations and in the public arena that that was the order that I think that the government of North Vietnam would have been right to reach the conclusion that our most important objective was to get our people out, both those who were there fighting and those that were being held there as POWs. And that a second tier objective was to obtain a meaningful cease-fire and get an opportunity for South Vietnam to govern itself.

Indeed, as I understand, when you went to Saigon in the fall of 1972, one of the things that Tho objected to was that the agreement referenced three nations—Vietnam, Cambodia, and Laos—instead of making it clear that the whole issue was to argue that there was a South Vietnam Government as well as a North Vietnam Government.

The concern that I have right now, and it is a difficult one—it is a difficult one for all kinds of reasons—is that the more energy, notwithstanding the importance of the POW and missing issue. The more we make it clear to the current government of Vietnam that that's the most important thing that we have on our minds, it seems to me the possibility exists the less likely we will accomplish the objective.

It seems to me it might be a better policy and approach for us to take to say that our principle concern is making sure that self-determination is accomplished; that we are concerned still about the political freedom of the people of Vietnam which you deny them.

That it would be smarter for us, in the interest of trying to get an accounting of our missing, which is still not there—it would be smarter for us, in the interest to get a full accounting to say that you may be able to get away with lying to your own people about providing them freedom, but we clearly see from our vantage that you have not given your people freedom.

Thus, our interest is the political freedom of the people of Vietnam. We believe that it is more likely that we are going to get an accounting of our people when you are accountable to your own. You might be able to tell from my own presentation to you, it is my belief that it would be sounder for us to take that approach, and I was curious as to how you would advise this committee, as well as the rest of the Congress and the President himself, how we should move now to try to narrow these 135 discrepancies, and relieve the anxiety that the current families have about their loved ones.

General HAIG. Well, I don't want to give you a bureaucratic answer, but we have a very distinguished American who is actively involved, full-time almost, on this subject. We have a team. And I'm talking about Jack Vessey and his people, who have gone repeatedly to Hanoi. In my discussions with Jack, and I see him almost quarterly, I am very keenly interested in this subject.

He has suggested greater and greater cooperation, to include people on the ground now that are looking at crash sites, et cetera. I don't think he's still satisfied. But I think that pressure has got to be continued, and in that sense this committee can be helpful on that, that we're not satisfied that Hanoi has answered all the questions.

With respect to self-determination, I wouldn't want to say it was a subsidiary aspect of our objectives in Vietnam. It belonged in the first tier of our objectives along with, above all, convincing the Soviet Union they couldn't take over the world by proxies. That was the real issue in Vietnam. That's why I so strenuously supported our effort, although not the way we did it.

I said to President Johnson's people, as a young Lieutenant Colonel working for Bob McNamara, you are not going to get this thing solved the way you're going about it. It's a disaster. And I said you have to decide. If you want to get into a war, get into it to win or stay out of it. Don't get into it.

Now, can we decide how the people of Vietnam are going to shape their future? My answer to that is, be very leery, Senator. It doesn't mean that as a long-term objective that doesn't stay very, very important to us, and it is important to us.

But let me tell you, the good news is that since Moscow collapsed, Hanoi is a different country. They want—not our values. They don't understand our values, and that's what self-determination and democracy are all about. They want our system. Free markets, free enterprise. They want to get a piece of the action, the money. That is step one which will ultimately lead to step two.

But right now, we aren't there yet. And I think I would prefer to go for step one, initially; to go for a responsible response on where our POWs are, and a full accounting of these remaining cases. And, above all, are they cooperating in Kampuchea, where we know they've been, you know, sporadically cooperating. This is a very important issue because it involves China and the whole region.

So, my answer is, I wouldn't make this the centerpiece of what we're doing, although I share your concern for the importance of that as the centerpiece. The question is, how do you get there?

Senator KERREY. Well, let me ask it a different way, then. It seems to me that one could reach the conclusion—again, I factor in hindsight. It was not my conclusion. I was not paying that much attention to it in 1972. I put Vietnam, with all respect, in the out box after I came home.

But it seems to me that it is fair to wonder why we did not regard North Vietnam as, essentially, a group of terrorists in the way that they were handling our prisoners. They did not regard the men that they held as prisoners. They regarded them as political criminals. They regarded them as war criminals. They were not providing them with any humanitarian treatment that met the Geneva Accords. They would not let the international committee of the Red Cross come.

It seems to me that the same approach that we use toward hostages would have been a more appropriate approach toward it then. And it may be the better approach now, if you follow what I am saying. I mean, why would you assume that we would be able to get into a negotiation dealing with the POWs and MIAs with a nation that was treating our prisoners as if they were war criminals.

General HAIG. Well, you know, this you could debate forever, Senator. I give you my own opinion, and that is that they want what we have today for the first time in recent history. And that is because of the systemic collapse of Marxist-Leninism, not because democracy has won over totalitarianism. We are running around beating our breasts saying that.

Let me tell you, that's not true. That struggle is still going on. And if we fail there—and I'm talking about education and values here at home, and law and order. If we fail there, then you're going to lose all these people anyway because they're going to take some other method of governing themselves.

But, it's like China. I think President Bush has been right on China, not because I admire what they do, but because I think it's far better to not drive them into angry isolation, to recognize that systemic changes are occurring which will ultimately lead to what we all hope for—greater representation of the people in government.

Somebody said to me, what's going to happen? I said, I think they are going to be Taiwanized and Hong Konged. And if you go to Southern China you see that. You know, in town here, I feel like I'm living in a dream world when I hear these guys who want to get out there, cut off most favored nation, and bang on them. These people are not going to respond to us under such circumstances. They did it in Tokyo when I was a young officer because we beat

their socks off. They had no alternative, and thank God they adapted what we recommended.

What I'm saying is you haven't got that kind of leverage in Hanoi, and I would far rather they get our prisoners accounted for, they continue to cooperate in Kampuchea, and start in small ways to get American businessmen in there, entrepreneurs, to do the job. I'm not ready to say we're ready to go like that. One of your witnesses earlier did. Dick Walters, my friend, said no, and I agree with Dick for the moment. But we are getting very close to the point where we should normalize if they do what's right. And you can help that on this POW issue, I believe.

Chairman KERRY. Thank you very much, Senator Kerrey. Let me just clarify for the record when I spoke earlier regarding the President's speech that I referred to on the MIA issue. The President mentioned the MIA issue in conjunction with a number of issues that were not meeting with full compliance.

But what I am suggesting is he did not raise the—he did not personalize and raise the issue of noncompliance on POWs with the notion that we believe there were people that could be accounted for who were not being accounted for. There was just sort of this general sense of, well, MIAs is not being accounted for, which is distinct from the notion that you believe you have prisoners that were held and they are not returned. And I think the Americans would have reacted, obviously, very differently to the latter than the former.

Second, his broader comment was not, we have gotten back all the prisoners that they have given us a list of. It was that all the prisoners have come home. So, there was a real distinction between what we knew or thought we knew about prisoners versus MIA generically. And that is, I think, something that lingered.

So, anyway—Mr. Secretary, I am sorry that this has been such an agonizing experience, but I really do appreciate you being here. The committee is very grateful to you for the time. I think it has been helpful, notwithstanding—

General HAIG. Let me emphasize one thing, Senator. I am here voluntarily. I didn't come kicking and screaming. I thought I could make a contribution, and I wanted to be sure the record reflected my reservations about the direction of this committee.

Chairman KERRY. Well, we respect that. And everybody has the right to have their point of view, and we take your reservations into account. And I promise you that every Member of this committee is going to sit and think seriously about everything every witness has said.

General HAIG. And I hope my last advice is that you do read what I brought here for you, and I will call at the end of the next week for an examination of the Members.

[Laughter.]

Chairman KERRY. Well, if we have enough staff to help us with we will get it done.

We stand in recess until 9 a.m. tomorrow morning.

[Whereupon, at 6:17 p.m., the committee recessed.]

APPENDIX

October 27, 1992.

Senator JOHN F. KERRY,
Chairman, Senate Select Committee on POW/MA Affairs,
Room SH-705, Hart Senate Office Building
Washington, DC 20510-2079.

Attention: Neal E. Kravitz.

DEAR MR. CHAIRMAN: I have already submitted my editing changes to my September 21, 1992 testimony and my responses to additional questions.

This note is to reaffirm a position I took in my depositions and testimony, namely that President Nixon did not knowingly leave American prisoners behind when he implemented the Paris Agreement. This is clear in my own statements but certain media excerpts concerning the hearings suggested otherwise. They seemed to interpret my point that President Nixon made a tough (and correct) decision to go ahead with the agreement as confirming or implying that he knew he was leaving men behind. The decision was difficult because of our disappointment over the prisoner lists, especially the Laos one. The discrepancies with our intelligence were very disturbing, but we had no conclusive proof that any prisoners were being left behind.

In view of this impression in some (by no means all) media reports, I thought it would be helpful to reiterate my perspective on this point.

Sincerely,

WINSTON LORD.

CONVENTION (III) RELATIVE TO THE TREATMENT OF PRISONERS OF WAR—

SIGNED AT GENEVA, 12 AUGUST 1949;

RATIFIED BY U.S. SENATE JULY 6, 1955

COMMITTEE ON FOREIGN AFFAIRS

[EXCERPTS FROM]

Human Rights Documents

*Compilation of Documents Pertaining
to Human Rights*

U.S. Laws on Human Rights
Basic U.N. Human Rights Instruments
U.N. Instruments in Selected Human Rights Areas
Regional Human Rights Instruments
War Crimes and International Humanitarian Law
(Laws of Armed Conflict)
Human Rights Bodies Established by U.S. Laws or
Multilateral Instruments



SEPTEMBER 1945

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No. 40—CONVENTION (III) RELATIVE TO THE TREATMENT OF PRISONERS
OF WAR—SIGNED AT GENEVA, 12 AUGUST 1949; RATIFIED BY U.S.
SENATE JULY 6, 1955

INTRODUCTORY NOTE. The present Convention replaced the Prisoners of War Convention of 1929 (see No. 36). It contains 143 Articles whereas the 1929 Convention had only 97. Experience had shown that it was necessary to give certain regulations a more explicit form in order to preclude misinterpretation, to which certain of the former provisions were open. Since the text of the Convention is to be posted in all prisoner of war camps (see Article 41) it has to be comprehensible not only to the authorities but also to the ordinary reader. The categories of persons entitled to prisoner of war status were broadened in accordance with Conventions I and II. The conditions of captivity were more precisely defined, in particular with regard to the labour of prisoners of war, their financial resources, the relief they receive and the judicial proceedings instituted against them. The Convention establishes the principle that prisoners of war shall be released and repatriated without delay after the cessation of active hostilities (Article 118).

ENTRY INTO FORCE: 21 October 1950; for the United States February 2, 1956.

AUTHENTIC TEXTS: English and French. The text below is reprinted from the *Final Record of the Diplomatic Conference of Geneva of 1949*, Vol. I. Federal Political Department, Berne pp. 243-296.

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from 21 April to 12 August 1949, for the purpose of revising the Convention concluded at Geneva on 27 July 1929, relative to the Treatment of Prisoners of War, have agreed as follows.¹

Part I—General Provisions

Article 1. The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Art. 2. In addition to the provisions which shall be implemented in peace-time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a Party to the present Convention, the Powers who are Parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Art. 3.² In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, re-

¹ Reservations made by the United States of America with respect to this Convention.
² Reservations in respect of this Article made by Argentina and Portugal (withdrawn).

ligion or faith sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
 - (b) taking of hostages;
 - (c) outrages upon personal dignity, in particular, humiliating and degrading treatment;
 - (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.
- (2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Art. 4.³

A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

(1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfill the following conditions:

- (a) that of being commanded by a person responsible for his subordinates;
- (b) that of having a fixed distinctive sign recognizable at a distance;
- (c) that of carrying arms openly;
- (d) that of conducting their operations in accordance with the laws and customs of war.

(3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.

(4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall

³ Reservation in respect of this Article made by Portugal (withdrawn).

provide them for that purpose with an identity card similar to the annexed model.

(5) Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.

(6) Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

B. The following shall likewise be treated as prisoners of war under the present Convention:

(1) Persons belonging, or having belonged, to the armed forces of the occupied country, if the occupying Power considers it necessary by reason of such allegiance to intern them, even though it has originally liberated them while hostilities were going on outside the territory it occupies, in particular where such persons have made an unsuccessful attempt to rejoin the armed forces to which they belong and which are engaged in combat, or where they fail to comply with a summons made to them with a view to internment.

(2) The persons belonging to one of the categories enumerated in the present Article, who have been received by neutral or non-belligerent Powers on their territory and whom these Powers are required to intern under international law, without prejudice to any more favourable treatment which these Powers may choose to give and with the exception of Articles 8, 10, 30, fifth paragraph, 58-67, 92, 126 and, where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned, those Articles concerning the Protecting Power. Where such diplomatic relations exist, the Parties to a conflict on whom these persons depend shall be allowed to perform towards them the functions of a Protecting Power as provided in the present Convention, without prejudice to the functions which these Parties normally exercise in conformity with diplomatic and consular usage and treaties.

C. This Article shall in no way affect the status of medical personnel and chaplains as provided for in Article 33 of the present Convention.

Art. 5. The present Convention shall apply to the persons referred to in Article 4 from the time they fall into the power of the enemy and until their final release and repatriation. Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.

Art. 6. In addition to the agreements expressly provided for in Articles 10, 23, 28, 33, 60, 65, 66, 67, 72, 73, 75, 109, 110, 118, 119, 122 and 132, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall ad-

versely affect the situation of prisoners of war as defined by the present Convention, nor restrict the rights which it confers upon them.

Prisoners of war shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Art. 7. Prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Art. 8. The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

Art. 9. The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of prisoners of war and for their relief.

Art. 10.⁴ The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When prisoners of war do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume

⁴ Reservations in respect of this Article made by Albania, Bulgaria, Byelorussian SSR, China, Czechoslovakia, Germany (Democratic Republic of), Hungary, Korea (Democratic People's Republic of), Poland, Portugal, Romania, Ukrainian SSR, USSR, Vietnam (Democratic Republic of) and Yugoslavia.

the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Parties to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

Art. 11.⁵ In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for prisoners of war, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

Part II—General Protection of Prisoners of War

Art. 12.⁶ Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.

Prisoners of war may only be transferred by the Detaining Power to a Power which is a Party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. When prisoners of war are transferred under such circumstances, responsibility for the application of the Convention rests on the Power accepting them while they are in its custody.

⁵ Reservation in respect of this Article made by Hungary.

⁶ Reservations in respect of this Article made by Albania, Bulgaria, Byelorussian SSR, China, Czechoslovakia, Germany (Democratic Republic of), Hungary, Korea (Democratic People's Republic of), Poland, Portugal, Romania, Ukrainian SSR, USSR, (Democratic Republic of) and Yugoslavia. Australia, New Zealand, United Kingdom and United States of America made objections to these reservations.

Nevertheless, if that Power fails to carry out the provisions of the Convention in any important respect, the Power by whom the prisoners of war were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the prisoners of war. Such requests must be complied with.

Art. 13. Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

Art. 14. Prisoners of war are entitled in all circumstances to respect for their persons and their honour.

Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men.

Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

Art. 15. The Power detaining prisoners of war shall be bound to provide free of charge of their maintenance and for the medical attention required by their state of health.

Art. 16. Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria.

Part III—Captivity

Section I—Beginning of Captivity

Art. 17. Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personnel or serial number, or failing this, equivalent information.

If he wilfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number of equivalent informa-

tion, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5x10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.

No physical or mental torture, nor any form of coercion may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a language which they understand.

Art. 18. All effects and articles of personal use, except arms, horses, military equipment and military documents, shall remain in the possession of prisoners of war, likewise their metal helmets and gas masks and like articles issued for personal protection. Effects and articles used for their clothing or feeding shall likewise remain in their possession, even if such effects and articles belong to their regulation military equipment.

At no time should prisoners of war be without identity documents. The Detaining Power shall supply such documents to prisoners of war who possess none.

Badges of rank and nationality, decorations and articles having above all a personal or sentimental value may not be taken from prisoners of war.

Sums of money carried by prisoners of war may not be taken away from them except by order of an officer, and after the amount and particulars of the owner have been recorded in a special register and an itemized receipt has been given, legibly inscribed with the name, rank and unit of the person issuing the said receipt. Sums in the currency of the Detaining Power, or which are changed into such currency at the prisoner's request, shall be placed to the credit of the prisoner's account as provided in Article 64.

The Detaining Power may withdraw articles of value from prisoners of war only for reasons of security; when such articles are withdrawn, the procedure laid down for sums of money impounded shall apply.

Such objects, likewise the sums taken away in any currency other than that of the Detaining Power and the conversion of which has not been asked for by the owners, shall be kept in the custody of the Detaining Power and shall be returned in their initial shape to prisoners of war at the end of their captivity.

Art. 19. Prisoners of war shall be evacuated, as soon as possible after capture, to camps situated in an area far enough from the combat zone for them to be out of danger.

Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone.

Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

Art. 20. The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the Detaining Power in their changes of station.

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as soon as possible a list of the prisoners of war who are evacuated.

If prisoners of war must, during evacuation, pass through transit camps, their stay in such camps shall be as brief as possible.

Section II—Internment of Prisoners of War

Chapter I—General Observations

Art. 21. The Detaining Power may subject prisoners of war to internment. It may impose on them the obligation of not leaving, beyond certain limits, the camp where they are interned, or if the said camp is fenced in, of not going outside its perimeter. Subject to the provisions of the present Convention relative to penal and disciplinary sanctions, prisoners of war may not be held in close confinement except where necessary to safeguard their health and then only during the continuation of the circumstances which make such confinement necessary.

Prisoners of war may be partially or wholly released on parole or promise, in so far as is allowed by the laws of the Power on which they depend. Such measures shall be taken particularly in cases where this may contribute to the improvement of their state of health. No prisoner of war shall be compelled to accept liberty on parole or promise.

Upon the outbreak of hostilities, each Party to the conflict shall notify the adverse Party of the laws and regulations allowing or forbidding its own nationals to accept liberty on parole or promise. Prisoners of war who are paroled or who have given their promise in conformity with the laws and regulations so notified, are bound on their personal honour scrupulously to fulfil, both towards the Power on which they depend and towards the Power on which has captured them, the engagements of their paroles or promises. In such cases, the Power on which they depend is bound neither to require nor to accept from them any service incompatible with the parole or promise given.

Art. 22. Prisoners of war may be interned only in premises located on land and affording every guarantee of hygiene and healthfulness. Except in particular cases which are justified by the interest of the prisoners themselves, they shall not be interned in penitentiaries.

Prisoners of war interned in unhealthy areas, or where the climate is injurious for them, shall be removed as soon as possible to a more favourable climate.

The Detaining Power shall assemble prisoners of war in camps or camp compounds according to their nationality, language and customs, provided that such prisoners shall not be separated from prisoners of war belonging to the armed forces with which they were serving at the time of their capture, except with their consent.

Art. 23. No prisoner of war may at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations.

Prisoners of war shall have shelters against air bombardment and other hazards of war, to the same extent as the local civilian population. With the exception of those engaged in the protection of their quarters against the aforesaid hazards, they may enter such shelters as soon as possible after the giving of the alarm. Any other protective measure taken in favour of the population shall also apply to them.

Detaining Powers shall give the Powers concerned, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of prisoner of war camps.

Whenever military considerations permit, prisoner of war camps shall be indicated in the day-time by the letters PW or PG, placed so as to be clearly visible from the air. The Powers concerned may, however, agree upon any other system of marking. Only prisoner of war camps shall be marked as such.

Art. 24. Transit or screening camps of a permanent kind shall be fitted out under conditions similar to those described in the present Section, and the prisoners therein shall have the same treatment as in other camps.

Chapter II—Quarters, Food and Clothing of Prisoners of War

Art. 25. Prisoners of war shall be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area. The said conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health.

The foregoing provisions shall apply in particular to the dormitories of prisoners of war as regards both total surface and minimum cubic space, and the general installations, bedding and blankets.

The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. All precautions must be taken against the danger of fire.

In any camps in which women prisoners of war, as well as men, are accommodated, separate dormitories shall be provided for them.

Art. 26. The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies.

cies. Account shall also be taken of the habitual diet of the prisoners.

The Detaining Power supply prisoners of war who work with such additional rations as are necessary for the labour on which they are employed.

Sufficient drinking water shall be supplied to prisoners of war. The use of tobacco shall be permitted.

Prisoners of war shall, as far as possible, be associated with the preparation of their meals; they may be employed for that purpose in the kitchens. Furthermore, they shall be given the means of preparing, themselves, the additional food in their possession.

Adequate premises shall be provided for messing.

Collective disciplinary measures affecting food are prohibited.

Art. 27. Clothing, underwear and footwear shall be supplied to prisoners of war in sufficient quantities by the Detaining Power, which shall make allowance for the climate of the region where the prisoners are detained. Uniforms of enemy armed forces captured by the Detaining Power should, if suitable for the climate, be made available to clothe prisoners of war.

The regular replacement and repair of the above articles shall be assured by the Detaining Power. In addition, prisoners of war who work shall receive appropriate clothing, wherever the nature of the work demands.

Art. 28. Canteens shall be installed in all camps, where prisoners of war may procure foodstuffs, soap and tobacco and ordinary articles in daily use. The tariff shall never be in excess of local market prices.

The profits made by camp canteens shall be used for the benefit of the prisoners; a special fund shall be created for this purpose. The prisoners' representative shall have the right to collaborate in the management of the canteen and of this fund.

When a camp is closed down, the credit balance of the special fund shall be handed to an international welfare organization, to be employed for the benefit of prisoners of war of the same nationality as those who have contributed to the fund. In case of a general repatriation, such profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

Chapter III—Hygiene and Medical Attention

Art. 29. The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps, and to prevent epidemics.

Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them.

Also, apart from the baths and showers with which the camps shall be furnished, prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose.

Art. 30. Every camp shall have an adequate infirmary where prisoners of war may have the attention they require, as well as appropriate diet. Isolation wards shall, if necessary, be set aside for cases of contagious or mental disease.

Prisoners of war suffering from serious disease, or whose condition necessitates special treatment, a surgical operation or hospital care, must be admitted to any military or civil medical unit where such treatment can be given, even if their repatriation is contemplated in the near future. Special facilities shall be afforded for the care to be given to the disabled, in particular to the blind, and for their rehabilitation, pending repatriation.

Prisoners of war shall have the attention, preferably, of medical personnel of the Power on which they depend and, if possible, of their nationality.

Prisoners of war may not be prevented from presenting themselves to the medical authorities for examination. The detaining authorities shall, upon request, issue to every prisoner who has undergone treatment, an official certificate indicating the nature of his illness or injury, and the duration and kind of treatment received. A duplicate of this certificate shall be forwarded to the Central Prisoners of War Agency.

The costs of treatment, including those of any apparatus necessary for the maintenance of prisoners of war in good health, particularly dentures and other artificial appliances, and spectacles, shall be borne by the Detaining Power.

Art. 31. Medical inspections of prisoners of war shall be made at least once a month. They shall include the checking and the recording of the weight of each prisoner of war. Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of prisoners and to detect contagious diseases, especially tuberculosis, malaria and venereal disease. For this purpose the most efficient methods available shall be employed, e.g. periodic mass miniature radiography for the early detection of tuberculosis.

Art. 32. Prisoners of war who, though not attached to the medical service of their armed forces, are physicians, surgeons, dentists, nurses or medical orderlies, may be required by the Detaining Power to exercise their medical functions in the interests of prisoners of war dependent on the same Power. In that case they shall continue to be prisoners of war, but shall receive the same treatment as corresponding medical personnel retained by the Detaining Power. They shall be exempted from any other work under Article 49.

Chapter IV—Medical Personnel and Chaplains Retained to Assist Prisoners of War

Art. 33. Members of the medical personnel and chaplains while retained by the Detaining Power with a view to assisting prisoners of war, shall not be considered as prisoners of war. They shall, however, receive as a minimum the benefits and protection of the present Convention, and shall also be granted all facilities necessary to provide for the medical care of, and religious ministrations to prisoners of war.

They shall continue to exercise their medical and spiritual functions for the benefit of prisoners of war, preferably those belonging to the armed forces upon which they depend, within the scope of the military laws and regulations of the Detaining Power and under the control of its competent services, in accordance with their professional etiquette. They shall also benefit by the following facilities in the exercise of their medical or spiritual functions:

(a) They shall be authorized to visit periodically prisoners of war situated in working detachments or in hospitals outside the camp. For this purpose, the Detaining Power shall place at their disposal the necessary means of transport.

(b) The senior medical officer in each camp shall be responsible to the camp military authorities for everything connected with the activities of retained medical personnel. For this purpose, Parties to the conflict shall agree at the outbreak of hostilities on the subject of the corresponding ranks of the medical personnel, including that of societies mentioned in Article 26 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949. This senior medical officer, as well as chaplains, shall have the right to deal with the competent authorities of the camp on all questions relating to their duties. Such authorities shall afford them all necessary facilities for correspondence relating to these questions.

(c) Although they shall be subject to the internal discipline of the camp in which they are retained, such personnel may not be compelled to carry out any work other than that concerned with their medical or religious duties.

During hostilities, the Parties to the conflict shall agree concerning the possible relief of retained personnel and shall settle the procedure to be followed.

None of the preceding provisions shall relieve the Detaining Power of its obligations with regard to prisoners of war from the medical or spiritual point of view.

Chapter V—Religious, Intellectual and Physical Activities

Art. 34. Prisoners of war shall enjoy complete latitude in the exercise of their religious duties, including attendance at the service of their faith, on condition that they comply with the disciplinary routine prescribed by the military authorities.

Adequate premises shall be provided where religious services may be held.

Art. 35. Chaplains who fall into the hands of the enemy Power and who remain or are retained with a view to assisting prisoners of war, shall be allowed to minister to them and to exercise freely their ministry amongst prisoners of war of the same religion, in accordance with their religious conscience. They shall be allocated among the various camps and labour detachments containing prisoners of war belonging to the same forces, speaking the same language or practicing the same religion. They shall enjoy the necessary facilities, including the means of transport provided for in Article 33, for visiting the prisoners of war outside their camp. They shall be free to correspond, subject to censorship, on matters con-

cerning their religious duties with the ecclesiastical authorities in the country of detention and with international religious organizations. Letters and cards which they may send for this purpose shall be in addition to the quota provided for in Article 71.

Art. 36. Prisoners of war who are ministers of religion, without having officiated as chaplains to their own forces, shall be at liberty, whatever their denomination, to minister freely to the members of their community. For this purpose, they shall receive the same treatment as the chaplains retained by the Detaining Power. They shall not be obliged to do any other work.

Art. 37. When prisoners of war have not the assistance of a retained chaplain or of a prisoner of war minister of their faith, a minister belonging to the prisoners' or a similar denomination, or in his absence a qualified layman, if such a course is feasible from a confessional point of view, shall be appointed at the request of the prisoners concerned, to fill this office. This appointment, subject to the approval of the Detaining Power shall take place with the agreement of the community of prisoners concerned and, wherever necessary, with the approval of the local religious authorities of the same faith. The person thus appointed shall comply with all regulations established by the Detaining Power in the interests of discipline and military security.

Art. 38. While respecting the individual preferences of every prisoner, the Detaining Power shall encourage the practice of intellectual, educational, and recreational pursuits, sports and games amongst prisoners, and shall take the measures necessary to ensure the exercise thereof by providing them with adequate premises and necessary equipment.

Prisoners shall have opportunities for taking physical exercise including sports and games and for being out of doors. Sufficient open spaces shall be provided for this purpose in all camps.

Chapter VI—Discipline

Art. 39. Every prisoner of war camp shall be put under the immediate authority of a responsible commissioned officer belonging to the regular armed forces of the Detaining Power. Such officer shall have in his possession a copy of the present Convention; he shall ensure that its provisions are known to the camp staff and the guard and shall be responsible, under the direction of his government, for its application.

Prisoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own forces.

Officer prisoners of war are bound to salute only officers of a higher rank of the Detaining Power; they must, however, salute the camp commander regardless of his rank.

Art. 40. The wearing of badges of rank and nationality, as well as of decorations, shall be permitted.

Art. 41. In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language in places where all may read them. Copies shall be supplied, on request, to

the prisoners who cannot have access to the copy which has been posted.

Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand.

Art. 42. The use of weapons against prisoners of war, especially against those who are escaping or attempting to escape, shall constitute an extreme measure, which shall always be preceded by warnings appropriate to the circumstances.

Chapter VII—Rank of Prisoners of War

Art. 43. Upon the outbreak of hostilities, the Parties to the conflict shall communicate to one another the titles and ranks of all the persons mentioned in Article 4 of the present Convention, in order to ensure equality of treatment between prisoners of equivalent rank. Titles and ranks which are subsequently created shall form the subject of similar communications.

The Detaining Power shall recognize promotions in rank which have been accorded to prisoners of war and which have been duly notified by the Power on which these prisoners depend.

Art. 44. Officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

In order to ensure service in officers' camps, other ranks of the same armed forces who, as far as possible, speak the same language, shall be assigned in sufficient numbers, account being taken of the rank of officers and prisoners of equivalent status. Such orderlies shall not be required to perform any other work.

Supervision of the mess by the officers themselves shall be facilitated in every way.

Art. 45. Prisoners of war other than officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

Supervision of the mess by the prisoners themselves shall be facilitated in every way.

Chapter VIII—Transfer of Prisoners of War After Their Arrival in Camp

Art. 46. The Detaining Power, when deciding upon the transfer of prisoners of war, shall take into account the interests of the prisoners themselves, more especially so as not to increase the difficulty of their repatriation.

The transfer of prisoners of war shall always be effected humanely and in conditions not less favourable than those under which the forces of the Detaining Power are transferred. Account shall always be taken of the climatic conditions to which the prisoners of war are accustomed and the conditions of transfer shall in no case be prejudicial to their health.

The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good

health, likewise with the necessary clothing, shelter and medical attention. The Detaining Power shall take adequate precautions especially in case of transport by sea or by air, to ensure their safety during transfer, and shall draw up a complete list of all transferred prisoners before their departure.

Art. 47. Sick or wounded prisoners of war shall not be transferred as long as their recovery may be endangered by the journey, unless their safety imperatively demands it.

If the combat zone draws closer to a camp, the prisoners of war in the said camp shall not be transferred unless their transfer can be carried out in adequate conditions of safety, or unless they are exposed to greater risks by remaining on the spot than by being transferred.

Art. 48. In the event of transfer, prisoners of war shall be officially advised of their departure and of their new postal address. Such notifications shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of transfer so require, to what each prisoner can reasonably carry, which shall in no case be more than twenty-five kilogrammes per head.

Mail and parcels addressed to their former camp shall be forwarded to them without delay. The camp commander shall take, in agreement with the prisoners' representative, any measures needed to ensure the transport of the prisoners' community property and of the luggage they are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph of this Article.

The costs of transfers shall be borne by the Detaining Power.

Section III—Labour of Prisoners of War

Art. 49. The Detaining Power may utilize the labour of prisoners of war who are physically fit, taking into account their age, sex, rank and physical aptitude, and with a view particularly to maintaining them in a good state of physical and mental health.

Non-commissioned officers who are prisoners of war shall only be required to do supervisory work. Those not so required may ask for other suitable work which shall, so far as possible, be found for them.

If officers or persons of equivalent status ask for suitable work, it shall be found for them, so far as possible, but they may in no circumstances be compelled to work.

Art. 50. Besides work connected with camp administration, installation or maintenance, prisoners of war may be compelled to do only such work as is included in the following classes:

(a) agriculture;

(b) industries connected with the production or the extraction of raw materials, and manufacturing industries, with the exception of metallurgical, machinery and chemical industries; public works and building operations which have no military character or purpose;

- (c) transport and handling of stores which are not military in character or purpose;
- (d) commercial business, and arts and crafts;
- (e) domestic service;
- (f) public utility services having no military character or purpose.

Should the above provisions be infringed, prisoners of war shall be allowed to exercise their right of complaint, in conformity with Article 78.

Art. 51. Prisoners of war must be granted suitable working conditions, especially as regards accommodation, food, clothing and equipment; such conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work; account shall also be taken of climatic conditions.

The Detaining Power, in utilizing the labour of prisoners of war, shall ensure that in areas in which prisoners are employed, the national legislation concerning the protection of labour, and, more particularly, the regulations for the safety of workers, are duly applied.

Prisoners of war shall receive training and be provided with the means of protection suitable to the work they will have to do and similar to those accorded to the nationals of the Detaining Power. Subject to the provisions of Article 52, prisoners may be submitted to the normal risks run by these civilian workers.

Conditions of labour shall in no case be rendered more arduous by disciplinary measures.

Art. 52. Unless he be a volunteer, no prisoner of war may be employed on labour which is of an unhealthy or dangerous nature.

No prisoner of war shall be assigned to labour which would be looked upon as humiliating for a member of the Detaining Power's own forces.

The removal of mines or similar devices shall be considered as dangerous labour.

Art. 53. The duration of the daily labour of prisoners of war, including the time of the journey to and fro, shall not be excessive, and must in no case exceed that permitted for civilian workers in the district, who are nationals of the Detaining Power and employed on the same work.

Prisoners of war must be allowed, in the middle of the day's work, a rest of not less than one hour. This rest will be the same as that to which workers of the Detaining Power are entitled, if the latter is of longer duration. They shall be allowed in addition a rest of twenty-four consecutive hours every week, preferably on Sunday or the day of rest in their country of origin. Furthermore, every prisoner who has worked for one year shall be granted a rest of eight consecutive days, during which his working pay shall be paid him.

If methods of labour such as piece work are employed, the length of the working period shall not be rendered excessive thereby.

Art. 54. The working pay due to prisoners of war shall be fixed in accordance with the provisions of Article 62 of the present Convention.

Prisoners of war who sustain accidents in connection with work, or who contract a disease in the course, or in consequence of their

work, shall receive all the care their condition may require. The Detaining Power shall furthermore deliver to such prisoners of war a medical certificate enabling them to submit their claims to the Power on which they depend, and shall send a duplicate to the Central Prisoners of War Agency provided for in Article 123.

Art. 55. The fitness of prisoners of war for work shall be periodically verified by medical examinations, at least once a month. The examinations shall have particular regard to the nature of the work which prisoners of war are required to do.

If any prisoner of war considers himself incapable of working, he shall be permitted to appear before the medical authorities of his camp. Physicians or surgeons may recommend that the prisoners who are, in their opinion, unfit for work, be exempted therefrom.

Art. 56. The organization and administration of labour detachments shall be similar to those of prisoners of war camps.

Every labour detachment shall remain under the control of and administratively part of a prisoner of war camp. The military authorities and the commander of the said camp shall be responsible, under the direction of their government, for the observance of the provisions of the present Convention in labour detachments.

The camp commander shall keep an up-to-date record of the labour detachments dependent on his camp, and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross, or of other agencies giving relief to prisoners of war, who may visit the camp.

Art. 57. The treatment of prisoners of war who work for private persons, even if the latter are responsible for guarding and protecting them, shall not be inferior to that which is provided for by the present Convention. The Detaining Power, the military authorities and the commander of the camp to which such prisoners belong shall be entirely responsible for the maintenance, care, treatment, and payment of the working pay of such prisoners of war.

Such prisoners of war shall have the right to remain in communication with the prisoners' representatives in the camps on which they depend.

Section IV—Financial Resources of Prisoners of War

Art. 58. Upon the outbreak of hostilities, and pending an arrangement on this matter with the Protecting Power, the Detaining Power may determine the maximum amount of money in cash or in any similar form, that prisoners may have in their possession. Any amount in excess, which was properly in their possession and which has been taken or withheld from them, shall be placed to their account, together with any monies deposited by them, and shall not be converted into any other currency without their consent.

If prisoners of war are permitted to purchase services or commodities outside the camp against payment in cash, such payments shall be made by the prisoner himself or the camp administration who will charge them to the accounts of the prisoners concerned. The Detaining Power will establish the necessary rules in this respect.

Art. 59. Cash which was taken from prisoners of war, in accordance with Article 18, at the time of their capture, and which is in the currency of the Detaining Power, shall be placed to their separate accounts, in accordance with the provisions of Article 64 of the present Section.

The amounts, in the currency of the Detaining Power, due to the conversion of sums in other currencies that are taken from the prisoners of war at the same time, shall also be credited to their separate accounts.

Art. 60.⁷ The Detaining Power shall grant all prisoners of war a monthly advance of pay, the amount of which shall be fixed by conversion, into the currency of the said Power, of the following amounts:

Category I: Prisoners ranking below sergeants: eight Swiss francs.

Category II: Sergeants and other non-commissioned officers, or prisoners of equivalent rank: twelve Swiss francs.

Category III: Warrant officers and commissioned officers below the rank of major or prisoners of equivalent rank: fifty Swiss francs.

Category IV: Majors, lieutenant-colonels, colonels or prisoners of equivalent rank: sixty Swiss francs.

Category V: General officers or prisoners of war of equivalent rank: seventy-five Swiss francs.

However, the Parties to the conflict concerned may by special agreement modify the amount of advances of pay due to prisoners of the preceding categories.

Furthermore, if the amounts indicated in the first paragraph above would be unduly high compared with the pay of the Detaining Power's armed forces or would, for any reason, seriously embarrass the Detaining Power, then, pending the conclusion of a special agreement with the Power on which the prisoners depend to vary the amounts indicated above, the Detaining Power.

(a) shall continue to credit the accounts of the prisoners with the amounts indicated in the first paragraph above;

(b) may temporarily limit the amount made available from the sums which are reasonable, but which, for Category I, shall never be inferior to the amount that the Detaining Power gives to the members of its own armed forces.

The reasons for any limitations will be given without delay to the Protecting Power.

Art. 61. The Detaining Power shall accept for distribution as supplementary pay to prisoners of war sums which the Power on which the prisoners depend may forward to them, on condition that the sums to be paid shall be the same for each prisoner of the same category, shall be payable to all prisoners of that category depending on that Power, and shall be placed in their separate accounts, at the earliest opportunity, in accordance with the provisions of Article 64. Such supplementary pay shall not relieve the Detaining Power of any obligation under this Convention.

Art. 62. Prisoners of war shall be paid a fair working rate of pay by the detaining authorities direct. The rate shall be fixed by the said

⁷ Reservation in respect of this Article made by Portugal (withdrawn).

authorities, but shall at no time be less than one-fourth of one Swiss franc for a full working day. The Detaining Power shall inform prisoners of war, as well as the Power on which they depend, through the intermediary of the Protecting Power of the rate of daily working pay that it has fixed.

Working pay shall likewise be paid by the detaining authorities to prisoners of war permanently detailed to duties or to a skilled or semi-skilled occupation in connection with the administration, installation or maintenance of camps, and to the prisoners who are required to carry out spiritual or medical duties on behalf of their comrades.

The working pay of the prisoner's representative, of his advisers, if any, and of his assistants, shall be paid out of the fund maintained by canteen profits. The scale of this working pay shall be fixed by the prisoners' representative and approved by the camp commander. If there is no such fund, the detaining authorities shall pay these prisoners a fair working rate of pay.

Art. 63. Prisoners of war shall be permitted to receive remittances of money addressed to them individually or collectively.

Every prisoner of war shall have at his disposal the credit balance of his account as provided for in the following Article within the limits fixed by the Detaining Power, which shall make such payments as are requested. Subject to financial or money restrictions which the Detaining Power regards as essential, prisoners of war may also have payments made abroad. In this case payment addressed by prisoners of war to dependents shall be given priority.

In any event, and subject to the consent of the Power on which they depend, prisoners may have payments made in their own country, as follows: the Detaining Power shall send to the aforesaid Power through the Protecting Power, a notification giving all the necessary particulars concerning the prisoners of war, the beneficiaries of the payments, and the amount of the sums to be paid, expressed in the Detaining Power's currency. The said notification shall be signed by the prisoners and countersigned by the camp commander. The Detaining Power shall debit the prisoners' account by a corresponding amount; the summing thus debited shall be placed by it to the credit of the Power on which the prisoners depend.

To apply the foregoing provisions, the Detaining Power may usefully consult the Model Regulation in Annex V of the present Convention.

Art. 64. The Detaining Power shall hold an account for each prisoner of war, showing at least the following:

(1) The amounts due to the prisoner or received by him as advances of pay, as working pay or derived from any other source; the sums in the currency of the Detaining Power which were taken from him; the sums taken from him and converted at his request into the currency of the said Power.

(2) The payments made to the prisoner in cash, or in any other similar form; the payments made on his behalf and at his request; the sums transferred under Article 63, third paragraph.

Art. 65. Every item entered in the account of a prisoner of war shall be countersigned or initialed by him, or by the prisoners' representative acting on his behalf.

Prisoners of war shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts, which may likewise be inspected by the representatives of the Protecting Powers at the time of visits to the camp.

When prisoners of war are transferred from one camp to another, their personal accounts will follow them. In case of transfer from one Detaining Power to another, the monies which are their property and are not in the currency of the Detaining Power will follow them. They shall be given certificates of any other monies standing to the credit of their accounts.

The Parties to the conflict concerned may agree to notify to each other at specific intervals through the Protecting Power, the amount of the accounts of the prisoners of war.

Art. 66.⁸ On the termination of captivity, through the release of a prisoner of war or his repatriation, the Detaining Power shall give him a statement, signed by an authorized officer of that Power, showing the credit balance then due to him. The Detaining Power shall also send through the Protecting Power to the government upon which the prisoners of war depends, lists giving all appropriate particulars of all prisoners of war whose captivity has been terminated by repatriation, release, escape, death or any other means, and showing the amount of their credit balances. Such lists shall be certified on each sheet by an authorized representative of the Detaining Power.

Any of the above provisions of this Article may be varied by mutual agreement between any two Parties to the conflict.

The Power on which the prisoner of war depends shall be responsible for setting with him any credit balance due to him from the Detaining Power on the determination of his captivity.

Art. 67. Advances of pay, issued to prisoners of war in conformity with Article 60, shall be considered as made on behalf of the Power on which they depend. Such advances of pay as well as all payments made by the said Power under Article 63, third paragraph, and Article 68, shall form the subject of arrangements between the Powers concerned, at the close of hostilities.

Art. 68. Any claim by a prisoner of war for compensation in respect of any injury or other disability arising out of work shall be referred to the Power of which he depends, through the Protecting Power. In accordance with Article 54, the Detaining Power will, in all cases, provide the prisoner of war concerned with a statement showing the nature of the injury or disability, the circumstances in which it arose and particulars of medical or hospital treatment given for it. This statement will be signed by a responsible officer of the Detaining Power and the medical particulars certified by a medical officer.

Any claim from a prisoner of war for compensation in respect of personal effects, monies or valuables impounded by the Detaining Power under Article 18 and not forthcoming on his repatriation, or in respect of loss alleged to be due to the fault of the Detaining

⁸ Reservation in respect of paragraph 3 of this Article made by Italy.

Power or any of its servants shall likewise be referred to the Power on which he depends. Nevertheless, any such personal effects required for use by the prisoners of war whilst in captivity shall be replaced at the expense of the Detaining Power. The Detaining Power will, in all cases, provide the prisoner of war with a statement, signed by a responsible officer, showing all available information regarding the reasons why such effects, monies or valuables have not been restored to him. A copy of this statement will be forwarded to the Power on which he depends through the Central Agency for Prisoners of War provided for in Article 123.

Section V—Relations of Prisoners of War with the Exterior

Art. 69. Immediately upon prisoners of war falling into its power, the Detaining Power shall inform them and the Powers on which they depend, through the Protecting Power, of the measures taken to carry out the provisions of the present Section. They shall likewise inform the parties concerned of any subsequent modifications of such measures.

Art. 70. Immediately upon capture, or not more than one week after arrival at a camp, even if it is a transit camp, likewise in case of sickness or transfer to hospital or another camp, every prisoner of war shall be enabled to write direct to his family, on the one hand, and to the Central Prisoners of War Agency provided for in Article 123, on the other hand, a card similar, if possible, to the model annexed to the present Convention, informing his relatives of his capture, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any manner.

Art. 71.⁹ Prisoners of war shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each prisoner of war, the said number shall not be less than two letters and four cards monthly, exclusive of the capture cards provided for in Article 70, and conforming as closely as possible to the models annexed to the present Convention. Further limitations may be imposed only if the Protecting Power is satisfied that it would be in the interests of the prisoners of war concerned to do so owing to difficulties of translation caused by the Detaining Power's inability to find sufficient qualified linguists to carry out the necessary censorship. If limitations must be placed on the correspondence addressed to prisoners of war, they may be ordered only by the Power on which the prisoners depend, possibly at the request of the Detaining Power. Such letters and cards must be conveyed by the most rapid method at the disposal of the Detaining Power; they may not be delayed or retained for disciplinary reasons.

Prisoners of war who have been without news for a long period, or who are unable to receive news from their next of kin or to give them news by the ordinary postal route, as well as those who are at a great distance from their homes, shall be permitted to send telegrams the fees being charged against the prisoners of war's ac-

⁹ In connection with this Article, see Resolution 9 of the Diplomatic Conference of Geneva 1949.

counts with the Detaining Power or paid in the currency at their disposal. They shall likewise benefit by this measure in cases of urgency.

As a general rule, the correspondence of prisoners of war shall be written in their native language. The Parties to the conflict may allow correspondence in other languages.

Sacks containing prisoner of war mail must be securely sealed and labelled so as clearly to indicate their contents, and must be addressed to offices of destination.

Art. 72. Prisoners of war shall be allowed to receive by post or by any other means individual parcels or collective shipments containing, in particular, foodstuffs, clothing, medical supplies and articles of a religious, educational or recreational character which may meet their needs, including books, devotional articles, scientific equipment, examination papers, musical instruments, sports outfits and materials allowing prisoners of war to pursue their studies or their cultural activities.

Such shipments shall in no way free the Detaining Power from the obligations imposed upon it by virtue of the present Convention.

The only limits which may be placed on these shipments shall be those proposed by the Protecting Power in the interest of the prisoners themselves, or by the International Committee of the Red Cross or any other organization giving assistance to the prisoners, in respect of their own shipments only, on account of exceptional strain on transport or communications.

The conditions of the sending of individual parcels and collective relief shall, if necessary, be the subject of special agreements between the Powers concerned, which may in no case delay the receipt by the prisoners of relief supplies. Books may not be included in parcels of clothing and foodstuffs. Medical supplies shall, as a rule, be sent in collective parcels.

Art. 73. In the absence of special agreements between the Powers concerned on the conditions for the receipt and distribution of collective relief shipments, the rules and regulations concerning collective shipments, which are annexed to the present Convention, shall be applied.

The special agreements referred to above shall in no case restrict the right of prisoners' representatives to take possession of collective relief shipments intended for prisoners of war, to proceed to their distribution or to dispose of them in the interest of the prisoners.

Nor shall such agreements restrict the right of representatives of the Protecting Power, the International Committee of the Red Cross or any other organization giving assistance to prisoners of war and responsible for the forwarding of collective shipments, to supervise their distribution to the recipients.

Art. 74. All relief shipments for prisoners of war shall be exempt from import, customs and other dues.

Correspondence, relief shipments and authorized remittances of money addressed to prisoners of war or despatched by them through the post office, either direct or through the Information Bureaux provided for in Article 122 and the Central Prisoners of War Agency provided for in Article 123, shall be exempt from any

postal dues, both in the countries of origin and destination, and in intermediate countries.

If relief shipments intended for prisoners of war cannot be sent through the post office by reason of weight or for any other cause, the cost of transportation shall be borne by the Detaining Power in all the territories under its control. The other Powers party to the Convention shall bear the cost of transport in their respective territories.

In the absence of special agreements between the Parties concerned, the costs connected with transport of such shipments, other than costs covered by the above exemption, shall be charged to the senders.

The High Contracting Parties shall endeavour to reduce, so far as possible, the rates charged for telegrams sent by prisoners of war, or addressed to them.

Art. 75. Should military operations prevent the Powers concerned from fulfilling their obligation to assure the transport of the shipments referred to in Articles 70, 71, 72 and 77, the Protecting Powers concerned, the International Committee of the Red Cross or any other organization duly approved by the Parties to the conflict may undertake to ensure the conveyance of such shipments by suitable means (railway wagons, motor vehicles, vessels or aircraft, etc.). For this purpose, the High Contracting Parties shall endeavour to supply them with such transport and to allow its circulation, especially by granting the necessary safe-conducts.

Such transport may also be used to convey:

(a) correspondence, lists and reports exchanged between the Central Information Agency referred to in Article 123 and the National Bureaux referred to in Article 122;

(b) correspondence and reports relating to prisoners of war which the Protecting Powers, the International Committee of the Red Cross or any other body assisting the prisoners, exchange either with their own delegates or with the Parties to the conflict.

These provisions in no way detract from the right of any Party to the conflict to arrange other means of transport, if it should so prefer, nor preclude the granting of safe-conducts, under mutually agreed conditions, to such means of transport.

In the absence of special agreements, the costs occasioned by the use of such means of transport shall be borne proportionally by the Parties to the conflict whose nationals are benefited thereby.

Art. 76. The censoring of correspondence addressed to prisoners of war or despatched by them shall be done as quickly as possible. Mail shall be censored only by the despatching State and the receiving State, and once only by each.

The examination of consignments intended for prisoners of war shall not be carried out under conditions that will expose the goods contained in them to deterioration; except in the case of written or printed matter, it shall be done in the presence of the addressee, or of a fellow-prisoner duly delegated by him. The delivery to prisoners of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by Parties to the conflict, either for military or political reasons, shall be only temporary and its duration shall be as short as possible.

Art. 77. The Detaining Powers shall provide all facilities for the transmission, through the Protecting Power or the Central Prisoners of War Agency provided for in Article 123, of instruments, papers or documents intended for prisoners of war or despatched by them, especially powers of attorney and wills.

In all cases they shall facilitate the preparation and execution of such documents on behalf of prisoners of war; in particular, they shall allow them to consult a lawyer and shall take what measures are necessary for the authentication of their signatures.

Section VI—Relations Between Prisoners of War and the Authorities

Chapter 1—Complaints of Prisoners of War Respecting the Conditions of Captivity

Art. 78. Prisoners of war shall have the right to make known to the military authorities in whose power they are, their requests regarding the conditions of captivity to which they are subjected.

They shall also have the unrestricted right to apply to the representatives of Protecting Powers either through their prisoners' representative or, if they consider it necessary, direct, in order to draw their attention to any points on which they may have complaints to make regarding their conditions of captivity.

These requests and complaints shall not be limited nor considered to be a part of the correspondence quota referred to in Article 71. They must be transmitted immediately. Even if they are recognized to be unfounded, they may not give rise to any punishment.

Prisoners' representatives may send periodic reports on the situation in the camps and the needs of the prisoners of war to the representatives of the Protecting Powers.

Chapter II—Prisoners of War Representatives

Art. 79. In all places where there are prisoners of war, except in those where there are officers, the prisoners shall freely elect by secret ballot, every six months, and also in case of vacancies, prisoners' representatives entrusted with representing them before the military authorities, the Protecting Powers, the International Committee of the Red Cross and any other organization which may assist them. These prisoners' representatives shall be eligible for re-election.

In the camps for officers and persons of equivalent status or in mixed camps, the senior officer among the prisoners of war shall be recognized as the camp prisoners' representative. In camps for officers, he shall be assisted by one or more advisers chosen by the officers; in mixed camps, his assistant shall be chosen from among the prisoners of war who are not officers and shall be elected by them.

Officer prisoners of war of the same nationality shall be stationed in labour camps for prisoners of war, for the purpose of carrying out the camp administration duties for which the prisoners

of war are responsible. These officers may be elected as prisoners' representatives under the first paragraph of this Article. In such a case the assistants to the prisoners' representatives shall be chosen from among those prisoners of war who are not officers.

Every representative elected must be approved by the Detaining Power before he has the right to commence his duties. Where the Detaining Power refuses to approve a prisoner of war elected by his fellow prisoners of war, it must inform the Protecting Power of the reason for such refusal.

In all cases the prisoners' representative must have the same nationality, language and customs as the prisoners of war whom he represents. Thus, prisoners of war distributed in different sections of a camp, according to their nationality, language or customs, shall have for each section their own prisoners' representative, in accordance with the foregoing paragraphs.

Art. 80. Prisoners' representatives shall further the physical, spiritual and intellectual well-being of prisoners of war.

In particular, where the prisoners decide to organize amongst themselves a system of mutual assistance, this organization will be within the province of the prisoners' representative; in addition to the special duties entrusted to him by other provisions of the present Convention.

Prisoners' representatives shall not be held responsible, simply by reason of their duties, for any offences committed by prisoners of war.

Art. 81. Prisoners' representatives shall not be required to perform any other work, if the accomplishment of their duties is thereby made more difficult.

Prisoners' representatives may appoint from amongst the prisoners such assistants as they may require. All material facilities shall be granted them, particularly a certain freedom of movement necessary for the accomplishment of their duties (inspections of labour detachments, receipt of supplies, etc.).

Prisoners' representatives shall be permitted to visit premises where prisoners of war are detained, and every prisoner of war shall have the right to consult freely his prisoners' representative.

All facilities shall likewise be accorded to the prisoners' representatives for communication by post and telegraph with the detaining authorities, the Protecting Powers, the International Committee of the Red Cross and their delegates, the Mixed Medical Commissions and with the bodies which give assistance to prisoners of war. Prisoners' representatives of labour detachments shall enjoy the same facilities for communication with the prisoners' representatives of the principal camp. Such communications shall not be restricted, nor considered as forming a part of the quota mentioned in Article 71.

Prisoners' representatives who are transferred shall be allowed a reasonable time to acquaint their successors with current affairs.

In case of dismissal, the reasons therefor shall be communicated to the Protecting Power.

Chapter III—Penal and Disciplinary Sanctions

I. General Provisions

Art. 82. A prisoner of war shall be subject to the laws, regulations and orders in the armed forces of the Detaining Power; the Detaining Power shall be justified in taking judicial or disciplinary measures in respect of any offense committed by a prisoner of war against such laws, regulations or orders. However, no proceedings or punishments contrary to the provisions of this Chapter shall be allowed.

If any law, regulation or order of the Detaining Power shall declare acts committed by a prisoner of war to be punishable, whereas the same acts would not be punishable if committed by a member of the forces of the Detaining Power, such acts shall entail disciplinary punishments only.

Art. 83. In deciding whether proceedings in respect of an offence alleged to have been committed by a prisoner of war shall be judicial or disciplinary, the Detaining Power shall ensure that the competent authorities exercise the greatest leniency and adopt, wherever possible, disciplinary rather than judicial measures.

Art. 84. A prisoner of war shall be tried only by a military court, unless the existing laws of the Detaining Power expressly permit the civil courts to try a member of the armed forces of the Detaining Power in respect of the particular offense alleged to have been committed by the prisoner of war.

In no circumstances whatever shall a prisoner of war be tried by a court of any kind which does not offer the essential guarantees of independence and impartiality as generally recognized, and, in particular, the procedure of which does not afford the accused the rights and means of defense provided for in Article 105.

Art. 85.¹⁰ Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention.

Art. 86. No prisoner of war may be punished more than once for the same act or on the same charge.

Art. 87.¹¹ Prisoners of war may not be sentenced by the military authorities and courts of the Detaining Power to any penalties except those provided for in respect of members of the armed forces of the said Power who have committed the same acts.

When fixing the penalty, the courts or authorities of the Detaining Power shall take into consideration, to the widest extent possible, the fact that the accused, not being a national of the Detaining Power, is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will. The said courts or authorities shall be at liberty to reduce the penalty provided for the violation of which the prisoner of war is accused, and shall therefore not be bound to apply the minimum penalty prescribed.

¹⁰ Reservations in respect of this Article made by Albania, Bulgaria, Byelorussian SSR, China, Czechoslovakia, Germany (Democratic Republic of), Hungary, Korea (Democratic People's Republic of), Poland, Romania, Ukrainian SSR, USSR and Vietnam (Democratic Republic of). Australia, New Zealand, United Kingdom and United States of America made objections to those reservations.

¹¹ Reservation in respect to this Article made by Uruguay.

Collective punishment for individual acts, corporal punishments, imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden.

No prisoner of war may be deprived of his rank by the Detaining Power, or prevented from wearing his badges.

Art. 88. Officers, non-commissioned officers and men who are prisoners of war undergoing a disciplinary or judicial punishment, shall not be subjected to more severe treatment than that applied in respect of the same punishment to members of the armed forces of the Detaining Power of equivalent rank.

A woman prisoner of war shall not be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a woman member of the armed forces of the Detaining Power dealt with for a similar offence.

In no case may a woman prisoner of war be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a male member of the armed forces of the Detaining Power dealt with for a similar offence.

Prisoners of war who have served disciplinary or judicial sentences may not be treated differently from other prisoners of war.

II. Disciplinary Sanctions

Art. 89. The disciplinary punishments applicable to prisoners of war are the following:

- (1) A fine which shall not exceed 50 per cent of the advances of pay and working pay which the prisoner of war would otherwise receive under the provisions of Articles 60 and 62 during a period of not more than thirty days.
- (2) Discontinuance of privileges granted over and above the treatment provided for by the present Convention.
- (3) Fatigue duties not exceeding two hours daily.
- (4) Confinement.

The punishment referred to under (3) shall not be applied to officers.

In no case shall disciplinary punishments be inhuman, brutal or dangerous to the health of prisoners of war.

Art. 90. The duration of any single punishment shall in no case exceed thirty days. Any period of confinement awaiting the hearing of a disciplinary offence or the award of disciplinary punishment shall be deducted from an award pronounced against a prisoner of war.

The maximum of thirty days provided above may not be exceeded, even if the prisoner of war is answerable for several acts at the same time when he is awarded punishment, whether such acts are related or not.

The period between the pronouncing of an award of disciplinary punishment and its execution shall not exceed one month.

When a prisoner of war is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

Art. 91. The escape of a prisoner of war shall be deemed to have succeeded when:

(1) he has joined the armed forces of the Power on which he depends, or those of an allied Power;

(2) he has left the territory under the control of the Detaining Power, or of an ally of the said Power;

(3) he has joined a ship flying the flag of the Power on which he depends, or of an allied Power, in the territorial waters of the Detaining Power, the said ship not being under the control of the last named Power.

Prisoners of war who have made good their escape in the sense of this Article and who are recaptured, shall not be liable to any punishment in respect of their previous escape.

Art. 92. A prisoner of war who attempts to escape and is recaptured before having made good his escape in the sense of Article 91 shall be liable only to a disciplinary punishment in respect of this act, even if it is a repeated offence.

A prisoner of war who is recaptured shall be handed over without delay to the competent military authority.

Article 88, fourth paragraph, notwithstanding, prisoners of war punished as a result of an unsuccessful escape may be subjected to special surveillance. Such surveillance must not affect the state of their health, must be undergone in a prisoner of war camp, and must not entail the suppression of any of the safeguards granted them by the present Convention.

Art. 93. Escape or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance if the prisoner of war is subjected to trial by judicial proceedings in respect of an offence committed during his escape or attempt to escape.

In conformity with the principle stated in Article 83, offences committed by prisoners of war with the sole intention of facilitating their escape and which do not entail any violence against life or limb, such as offences against public property, theft without intention of self-enrichment, the drawing up or use of false papers, the wearing of civilian clothing, shall occasion disciplinary punishment only.

Prisoners of war who aid or abet an escape or an attempt to escape shall be liable on this count to disciplinary punishment only.

Art. 94. If an escaped prisoner of war is recaptured, the Power on which he depends shall be notified thereof in the manner defined in Article 122, provided notification of his escape has been made.

Art. 95. A prisoner of war accused of an offence against discipline shall not be kept in confinement pending the hearing unless a member of the armed forces of the Detaining Power would be so kept if he were accused of a similar offence, or if it is essential in the interests of camp order and discipline.

Any period spent by a prisoner of war in confinement awaiting the disposal of an offence against discipline shall be reduced to an absolute minimum and shall not exceed fourteen days.

The provisions of Articles 97 and 98 of this Chapter shall apply to prisoners of war who are in confinement awaiting the disposal of offences against discipline.

Art. 96. Acts which constitute offences against discipline shall be investigated immediately.

Without prejudice to the competence of courts and superior military authorities, disciplinary punishment may be ordered only by an officer having disciplinary powers in his capacity as camp commander, or by a responsible officer who replaces him or to whom he has delegated his disciplinary powers.

In no case may such powers be delegated to a prisoner of war or be exercised by a prisoner of war.

Before any disciplinary award is pronounced, the accused shall be given precise information regarding the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to all witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be announced to the accused prisoner of war and to the prisoners' representative.

A record of disciplinary punishments shall be maintained by the camp commander and shall be open to inspection by representatives of the Protecting Power.

Art. 97. Prisoners of war shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

All premises in which disciplinary punishments are undergone shall conform to the sanitary requirements set forth in Article 25. A prisoner of war undergoing punishment shall be enabled to keep himself in a state of cleanliness, in conformity with Article 29.

Officers and persons of equivalent status shall not be lodged in the same quarters as non-commissioned officers or men.

Women prisoners of war undergoing disciplinary punishment shall be confined in separate quarters from male prisoners of war and shall be under the immediate supervision of women.

Art. 98. A prisoner of war undergoing confinement as a disciplinary punishment, shall continue to enjoy the benefits of the provisions of this Convention except in so far as these are necessarily rendered inapplicable by the mere fact that he is confined. In no case may he be deprived of the benefits of the provisions of Articles 78 and 126.

A prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to his rank.

Prisoners of war awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, on their request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the camp infirmary or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money however, may be withheld from them until the completion of the punishment; they shall meanwhile be entrusted to the prisoners' representative who will hand over to the infirmary the perishable goods contained in such parcels.

III. Judicial Proceedings

Art. 99.¹² No prisoner of war may be tried or sentenced for an act which is not forbidden by the law of the Detaining Power or by International Law, in force at the time the said act was committed.

No moral or physical coercion may be exerted on a prisoner of war in order to induce him to admit himself guilty of the act of which he is accused.

No prisoner of war may be convicted without having had an opportunity to present his defence and the assistance of a qualified advocate or counsel.

Art. 100.¹³ Prisoners of war and the Protecting Powers shall be informed, as soon as possible, of the offences which are punishable by the death sentence under the laws of the Detaining Power.

Other offences shall not thereafter be made punishable by the death penalty without the concurrence of the Power upon which the prisoners of war depend.

The death sentence cannot be pronounced on a prisoner of war unless the attention of the court has, in accordance with Article 87, second paragraph, been particularly called to the fact that since the accused is not a national of the Detaining Power, he is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will.

Art. 101.¹³ If the death penalty is pronounced on a prisoner of war, the sentence shall not be executed before the expiration of a period of at least six months from the date when the Protecting Power receives, at an indicated address, the detailed communication provided for in Article 107.

Art. 102. A prisoner of war can be validly sentenced only if the sentence has been pronounced by the same courts according to the same procedure as in the case of members of the armed forces of the Detaining Power, and if, furthermore, the provisions of the present Chapter have been observed.

Art. 103. Judicial investigations relating to a prisoner of war shall be conducted as rapidly as circumstances permit and so that his trial shall take place as soon as possible. A prisoner of war shall not be confined while awaiting trial unless a member of the armed forces of the Detaining Power would be so confined if he were accused of a similar offence, or if it is essential to do so in the interests of national security. In no circumstances shall this confinement exceed three months.

Any period spent by a prisoner of war in confinement awaiting trial shall be deducted from any sentence of imprisonment passed upon him and taken into account in fixing any penalty.

The provisions of Articles 97 and 98 of this Chapter shall apply to a prisoner of war whilst in confinement awaiting trial.

Art. 104. In any case in which the Detaining Power has decided to institute judicial proceedings against a prisoner of war, it shall notify the Protecting Power as soon as possible and at least three weeks before the opening of the trial. This period of three weeks shall run as from the day on which such notification reaches the

Protecting Power at the address previously indicated by the latter to the Detaining Power.

The said notification shall contain the following information:

(1) Surname and first names of the prisoner of war, his rank, his army, regimental, personal or serial number, his date of birth, and his profession or trade, if any.

(2) Place of internment or confinement.

(3) Specification of the charge or charges on which the prisoner of war is to be arraigned, giving the legal provisions applicable.

(4) Designation of the court which will try the case, likewise the date and place fixed for the opening of the trial.

The same communication shall be made by the Detaining Power to the prisoners' representative.

If no evidence is submitted, at the opening of a trial, that the notification referred to above was received by the Protecting Power, by the prisoner of war and by the prisoners' representative concerned, at least three weeks before the opening of the trial, then the trial, then the latter cannot take place and must be adjourned.

Art. 105. The prisoner of war shall be entitled to assistance by one of his prisoner comrades, to defence by a qualified advocate or counsel of his own choice, to the calling of witnesses and, if he deems necessary, to the services of a competent interpreter. He shall be advised of these rights by the Detaining Power in due time before the trial.

Failing a choice by the prisoner of war, the Protecting Power shall find him an advocate or counsel, and shall have at least one week at its disposal for the purpose. The Detaining Power shall deliver to the said Power, on request, a list of persons qualified to present the defence. Failing a choice of an advocate or counsel by the prisoner of war or the Protecting Power, the Detaining Power shall appoint a competent advocate or counsel to conduct the defence.

The advocate or counsel conducting the defence on behalf of the prisoner of war shall have at his disposal a period of two weeks at least before the opening of the trial, as well as the necessary facilities to prepare the defence of the accused. He may, in particular, freely visit the accused and interview him in private. He may also confer with any witnesses for the defence, including prisoners of war. He shall have the benefit of these facilities until the term of appeal or petition has expired.

Particulars of the charge or charges on which the prisoner of war is to be arraigned, as well as the documents which are generally communicated to the accused by virtue of the laws in force in the armed forces of the Detaining Power, shall be communicated to the accused prisoner of war in a language which he understands, and in good time before the opening of the trial. The same communication in the same circumstances shall be made to the advocate or counsel conducting the defence on behalf of the prisoner of war.

The representatives of the Protecting Power shall be entitled to attend the trial of the case, unless, exceptionally, this is held *in camera* in the interest of State security. In such a case the Detaining Power shall advise the Protecting Power accordingly.

¹² Reservation in respect of this Article made by Spain.

¹³ Reservation in respect of this Article made by Uruguay.

Art. 106. Every prisoner of war shall have, in the same manner as the members of the armed forces of the Detaining Power, the right of appeal or petition from any sentence pronounced upon him, with a view to the quashing or revising of the sentence or the re-opening of the trial. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

Art. 107. Any judgment and sentence pronounced upon a prisoner of war shall be immediately reported to the Protecting Power in the form of a summary communication, which shall also indicate whether he has the right of appeal with a view to the quashing of the sentence or the re-opening of the trial. This communication shall likewise be sent to the prisoners' representative concerned. It shall also be sent to the accused prisoner of war in a language he understands, if the sentence was not pronounced in his presence. The Detaining Power shall also immediately communicate to the Protecting Power the decision of the prisoner of war to use or to waive his right of appeal.

Furthermore, if a prisoner of war is finally convicted or if a sentence pronounced against a prisoner of war in the first instance is a death sentence, the Detaining Power shall as soon as possible address to the Protecting Power a detailed communication containing:

- (1) the precise wording of the finding and sentence;
- (2) a summarized report of any preliminary investigation and of the trial, emphasizing in particular the elements of the prosecution and the defence;
- (3) notification, where applicable, of the establishment where the sentence will be served.

The communications provided for in the foregoing subparagraphs shall be sent to the Protecting Power at the address previously made known to the Detaining Power.

Art. 108. Sentences pronounced on prisoners of war after a conviction has become duly enforceable, shall be served in the same establishments and under the same conditions as in the case of members of the armed forces of the Detaining Power. These conditions shall in all cases conform to the requirements of health and humanity.

A woman prisoner of war on whom such a sentence has been pronounced shall be confined in separate quarters and shall be under the supervision of women.

In any case, prisoners of war sentenced to a penalty depriving them of their liberty shall retain the benefit of the provisions of Articles 78 and 126 of the present Convention. Furthermore, they shall be entitled to receive and despatch correspondence, to receive at least one relief parcel monthly, to take regular exercise in the open air, to have the medical care required by their state of health, and the spiritual assistance they may desire. Penalties to which they may be subjected shall be in accordance with the provisions of Article 87, third paragraph.

Part IV—Termination of Captivity

Section I—Direct Repatriation and Accommodation in Neutral Countries

Art. 109. Subject to the provisions of the third paragraph of this Article, Parties to the conflict are bound to send back to their own country, regardless of number or rank, seriously wounded and seriously sick prisoners of war, after having cared for them until they are fit to travel, in accordance with the first paragraph of the following Article.

Throughout the duration of hostilities, Parties to the conflict shall endeavour, with the cooperation of the neutral Powers concerned, to make arrangements for the accommodation in neutral countries of the sick and wounded prisoners of war referred to in the second paragraph of the following Article. They may, in addition, conclude agreements with a view to the direct repatriation or internment in a neutral country of able-bodied prisoners of war who have undergone a long period of captivity.

No sick or injured prisoner of war who is eligible for repatriation under the first paragraph of this Article, may be repatriated against his will during hostilities.

Art. 110. The following shall be repatriated direct:

- (1) Incurably wounded and sick whose mental or physical fitness seems to have been gravely diminished.
- (2) Wounded and sick who, according to medical opinion, are not likely to recover within one year, whose condition requires treatment and whose mental or physical fitness seems to have been gravely diminished.
- (3) Wounded and sick who have recovered, but whose mental or physical fitness seems to have gravely and permanently diminished.

The following may be accommodated in a neutral country:

- (1) Wounded and sick whose recovery may be expected within one year of the date of the wound or the beginning of the illness, if treatment in a neutral country might increase the prospects of a more certain and speedy recovery.
- (2) Prisoners of war whose mental or physical health, according to medical opinion, is seriously threatened by continued captivity, but whose accommodation in a neutral country might remove such a threat.

The conditions which prisoners of war accommodated in a neutral country must fulfill in order to permit their repatriation shall be fixed, as shall likewise their status, by agreement between the Powers concerned. In general, prisoners of war who have been accommodated in a neutral country, and who belong to the following categories, should be repatriated:

- (1) Those whose state of health has deteriorated so as to fulfill the conditions laid down for direct repatriation;
- (2) Those whose mental or physical powers remain, even after treatment, considerably impaired.

If no special agreements are concluded between the Parties to the conflict concerned, to determine the cases of disablement or sickness entailing direct repatriation or accommodation in a neu-

tral country, such cases shall be settled in accordance with the principles laid down in the Model Agreement concerning direct repatriation and accommodation in neutral countries of wounded and sick prisoners of war and in the Regulations concerning Mixed Medical Commissions annexed to the present Convention.

Art. 111. The Detaining Power, the Power on which the prisoners of war depend, and a neutral Power agreed upon by these two Powers, shall endeavour to conclude agreements which will enable prisoners of war to be interned in the territory of the said neutral Power until the close of hostilities.

Art. 112. Upon the outbreak of hostilities, Mixed Medical Commissions shall be appointed to examine sick and wounded prisoners of war, and to make all appropriate decisions regarding them. The appointment, duties and functioning of these Commissions shall be in conformity with the provisions of the Regulations annexed to the present Convention.

However, prisoners of war who, in the opinion of the medical authorities of the Detaining Power, are manifestly seriously injured or seriously sick, may be repatriated without having to be examined by a Mixed Medical Commission.

Art. 113. Besides those who are designated by the medical authorities of the Detaining Power, wounded or sick prisoners of war belonging to the categories listed below shall be entitled to present themselves for examination by the Mixed Medical Commissions provided for in the foregoing Article:

(1) Wounded and sick proposed by a physician or surgeon who is of the same nationality, or a national of a Party to the conflict allied with the Power on which the said prisoners depend, and who exercises his functions in the camp.

(2) Wounded and sick proposed by their prisoner's representative;

(3) Wounded and sick proposed by the Power on which they depend, or by an organization duly recognized by the said Power and giving assistance to the prisoners.

Prisoners of war who do not belong to one of the three foregoing categories may nevertheless present themselves for examination by Mixed Medical Commissions, but shall be examined only after those belonging to the said categories.

The physician or surgeon of the same nationality as the prisoners who present themselves for examination by the Mixed Medical Commission, likewise the prisoners' representative of the said prisoners, shall have permission to be present at the examination.

Art. 114. Prisoners of war who meet with accidents shall, unless the injury is self-inflicted, have the benefit of the provisions of this Convention as regards repatriation or accommodation in a neutral country.

Art. 115. No prisoner of war on whom a disciplinary punishment has been imposed and who is eligible for repatriation or for accommodation in a neutral country, may be kept back on the plea that he has not undergone his punishment.

Prisoners of war detained in connection with a judicial prosecution or conviction and who are designated for repatriation or accommodation in a neutral country, may benefit by such measures

before the end of the proceedings or the completion of the punishment, if the Detaining Power consents.

Parties to the conflict shall communicate to each other the names of those who will be detained until the end of the proceedings or the completion of the punishment.

Art. 116. The costs of repatriating prisoners of war or of transporting them to a neutral country shall be borne, from the frontiers of the Detaining Powers, by the Power on which the said prisoners depend.

Art. 117. No repatriated person may be employed on active military service.

Section II—Release and Repatriation of Prisoners of War at the Close of Hostilities

Art. 118.¹⁴ Prisoners of war shall be released and repatriated without delay after the cessation of active hostilities.

In the absence of stipulations to the above effect in any agreement concluded between the Parties to the conflict with a view to the cessation of hostilities, or failing any such agreement, each of the Detaining Powers shall itself establish and execute without delay a plan of repatriation in conformity with the principle laid down in the foregoing paragraph.

In either case, the measures adopted shall be brought to the knowledge of the prisoners of war.

The costs of repatriation of prisoners of war shall in all cases be equitably apportioned between the Detaining Power and the Power on which the prisoners depend. This apportionment shall be carried out on the following basis:

(a) If the two Powers are contiguous, the Power on which the prisoners of war depend shall bear the costs of repatriation from the frontiers of the Detaining Power.

(b) If the two Powers are not contiguous, the Detaining Power shall bear the costs of transport of prisoners of war over its own territory as far as its frontier or its port of embarkation nearest to the territory of the Power on which the prisoners of war depend. The Parties concerned shall agree between themselves as to the equitable apportionment of the remaining costs of the repatriation. The conclusion of this agreement shall in no circumstances justify any delay in the repatriation of the prisoners of war.

Art. 119. Repatriation shall be effected in conditions similar to those laid down in Articles 46 to 48 inclusive of the present Convention for the transfer of prisoners of war, having regard to the provisions of Article 118 and to those of the following paragraphs.

On repatriation, any articles of value impounded from prisoners of war under Article 18, and any foreign currency which has not been converted into the currency of the Detaining Power, shall be restored to them. Articles of value and foreign currency which, for any reason whatever, are not restored to prisoners of war on repatriation, shall be despatched to the Information Bureau set up under Article 122.

¹⁴ Reservation in respect of this Article made by Korea (Republic of).

Prisoners of war shall be allowed to take with them their personal effects, and any correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of repatriation so require, to what each prisoner can reasonably carry. Each prisoner shall in all cases be authorized to carry at least twenty-five kilogrammes.

The other personal effects of the repatriated prisoner shall be left in the charge of the Detaining Power which shall have them forwarded to him as soon as it has concluded an agreement to this effect, regulating the conditions of transport and the payment of the costs involved, with the Power on which the prisoner depends.

Prisoners of war against whom criminal proceedings for an indictable offence are pending may be detained until the end of such proceedings, and, if necessary, until the completion of the punishment. The same shall apply to prisoners of war already convicted for an indictable offence.

Parties to the conflict shall communicate to each other the names of any prisoners of war who are detained until the end of proceedings or until punishment has been completed.

By agreement between the Parties to the conflict, commissions shall be established for the purpose of searching for dispersed prisoners of war and of assuring their repatriation with the least possible delay.

Section III—Death of Prisoners of War

Art. 120. Wills of prisoners of war shall be drawn up so as to satisfy the conditions of validity required by the legislation of their country of origin, which will take steps to inform the Detaining Power of its requirements in this respect. At the request of the prisoner of war and, in all cases, after death, the will shall be transmitted without delay to the Protecting Power; a certified copy shall be sent to the Central Agency.

Death certificates, in the form annexed to the present Convention, or lists certified by a responsible officer, of all persons who die as prisoners of war shall be forwarded as rapidly as possible to the Prisoners of War Information Bureau established in accordance with Article 122. The death certificates or certified lists shall show particulars of identity as set out in the third paragraph of Article 17, and also the date and place of death, the cause of death, the date and place of burial and all particulars necessary to identify the graves.

The burial or cremation of a prisoner of war shall be preceded by a medical examination of the body with a view to confirming death and enabling a report to be made and, where necessary, establishing identity.

The detaining authorities shall ensure that prisoners of war who have died in captivity are honorably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, suitably maintained and marked so as to be found at any time. Wherever possible, deceased prisoners of war who depended on the same Power shall be interred in the same place.

Deceased prisoners of war shall be buried in individual graves unless unavoidable circumstances require the use of collective graves. Bodies may be cremated only for imperative reasons of hygiene, on account of the religion of the deceased or in accordance with his express wish to this effect. In case of cremation, the fact shall be stated and the reasons given in the death certificate of the deceased.

In order that graves may always be found, all particulars of burials and graves shall be recorded with a Graves Registration Service established by the Detaining Power. Lists of graves and particulars of the prisoners of war interred in cemeteries and elsewhere shall be transmitted to the Power on which such prisoners of war depended. Responsibility for the care of these graves and for records of any subsequent moves of the bodies shall rest on the Power controlling the territory, if a Party to the present Convention. These provisions shall also apply to the ashes which shall be kept by the Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country.

Art. 121. Every death or serious injury of a prisoner of war caused or suspected to have been caused by a sentry, another prisoner of war, or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official enquiry by the Detaining Power.

A communication on this subject shall be sent immediately to the Protecting Power. Statements shall be taken from witnesses, especially from those who are prisoners of war, and a report including such statements shall be forwarded to the Protecting Power.

If the enquiry indicates the guilt of one or more persons, the Detaining Power shall take all measures for the prosecution of the person or persons responsible.

Part V—Information Bureau and Relief Societies for Prisoners of War

Art. 122. Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall institute an official Information Bureau for prisoners of war who are in its power. Neutral or non-belligerent Powers who may have received within their territory persons belonging to one of the categories referred to in Article 4, shall take the same action with respect to such persons. The Power concerned shall ensure that the Prisoners of War Information Bureau is provided with the necessary accommodation, equipment and staff to ensure its efficient working. It shall be at liberty to employ prisoners of war in such a Bureau under the conditions laid down in the Section of the present Convention dealing with work by prisoners of war.

Within the shortest possible period, each of the Parties to the conflict shall give its Bureau the information referred to in the fourth, fifth and sixth paragraphs of this Article regarding any enemy person belonging to one of the categories referred to in Article 4, who has fallen into its power. Neutral or non-belligerent Powers shall take the same action with regard to persons belonging to such categories whom they have received within their territory.

The Bureau shall immediately forward such information by the most rapid means to the Powers concerned through the intermediary of the Protecting Powers and likewise of the Central Agency provided for in Article 123.

This information shall make it possible quickly to advise the next of kin concerned. Subject to the provisions of Article 17, the information shall include, in so far as available to the Information Bureau, in respect of each prisoner of war, his surname, first names, rank, army, regimental, personal or serial number, place and full date of birth, indication of the Power on which he depends, first name of the father and maiden name of the mother, name and address of the person to be informed and the address to which correspondence for the prisoner may be sent.

The Information Bureau shall receive from the various departments concerned information regarding transfers, releases, repatriations, escapes, admissions to hospital, and deaths, and shall transmit such information in the manner described in the third paragraph above.

Likewise, information regarding the state of health of prisoners of war who are seriously ill or seriously wounded shall be supplied regularly, every week if possible.

The Information Bureau shall also be responsible for replying to all enquiries sent to it concerning prisoners of war, including those who have died in captivity; it will make any enquiries necessary to obtain the information which is asked for if this is not in its possession.

All written communications made by the Bureau shall be authenticated by a signature or a seal.

The Information Bureau shall furthermore be charged with collecting all personal valuables, including sums in currencies other than that of the Detaining Power and documents of importance to the next of kin, left by prisoners of war who have been repatriated or released, or who have escaped or died, and shall forward the said valuables to the Powers concerned. Such articles shall be sent by the Bureau in sealed packets which shall be accompanied by statements giving clear and full particulars of the identity of the persons to whom the articles belonged, and by a complete list of the contents of the parcel. Other personal effects of such prisoners of war shall be transmitted under arrangements agreed upon between the Parties to the conflict concerned.

Art. 123. A Central Prisoners of War Information Agency shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency.

The function of the Agency shall be to collect all the information it may obtain through official or private channels respecting prisoners of war, and to transmit it as rapidly as possible to the country of origin of the prisoners of war or to the Power on which they depend. It shall receive from the Parties to the conflict all facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose nationals benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require.

The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross, or of the relief Societies provided for in Article 125.

Art. 124. The national Information Bureaux and the Central Information Agency shall enjoy free postage for mail, likewise all the exemptions provided for in Article 74, and further, so far as possible, exemption from telegraphic charges or, at least, greatly reduced rates.

Art. 125. Subject to the measures which the Detaining Powers may consider essential to ensure their security or to meet any other reasonable need, the representatives of religious organizations, relief societies, or any other organization assisting prisoners of war, shall receive from the said Powers, for themselves and their duly accredited agents, all necessary facilities for visiting the prisoners, distributing relief supplies and material, from any source, intended for religious, educational or recreative purposes, and for assisting them in organizing their leisure time within the camps. Such societies or organizations may be constituted in the territory of the Detaining Power or in any other country, or they may have an international character.

The Detaining Power may limit the number of societies and organizations whose delegates are allowed to carry out their activities in its territory and under its supervision, on condition, however, that such limitation shall not hinder the effective operation of adequate relief to all prisoners of war.

The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all times.

As soon as relief supplies or material intended for the above-mentioned purposes are handed over to prisoners of war, or very shortly afterwards, receipts for each consignment, signed by the prisoners' representative, shall be forwarded to the relief society or organization making the shipment. At the same time, receipts for these consignments shall be supplied by the administrative authorities responsible for guarding the prisoners.

Part VI—Execution of the Convention

Section I—General Provisions

Art. 126. Representatives or delegates of the Protecting Powers shall have permission to go to all places where prisoners of war may be, particularly to places of internment, imprisonment and labour, and shall have access to all premises occupied by prisoners of war, they shall also be allowed to go to the places of departure, passage and arrival of prisoners who are being transferred. They shall be able to interview the prisoners, and in particular the prisoners' representatives, without witnesses, either personally or through an interpreter.

Representatives and delegates of the Protecting Powers shall have full liberty to select the places they wish to visit. The duration and frequency of these visits shall not be restricted. Visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure.

The Detaining Power and the Power on which the said prisoners of war depend may agree, if necessary that compatriots of these prisoners of war be permitted to participate in the visits.

The delegates of the International Committee of the Red Cross shall enjoy the same prerogatives. The appointment of such delegates shall be submitted to the approval of the Power detaining the prisoners of war to be visited.

Art. 127. The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to all their armed forces and to the entire population.

Any military or other authorities, who in time of war assume responsibilities in respect of prisoners of war, must possess the text of the Convention and be specially instructed as to its provisions.

Art. 128. The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

Art. 129. The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the present Convention.

Art. 130. Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile Power, or wilfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this Convention.

Art. 131. No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party or any liability incurred

by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Art. 132. At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

Section II—Final Provisions

Art. 133. The present Convention is established in English and in French. Both texts are equally authentic.

The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

Art. 134. The present Convention replaces the Convention of 27 July 1929, in relations between the High Contracting Parties.

Art. 135. In the relations between the Powers which are bound by the Hague Convention respecting the Laws and Customs of War on Land, whether that of 29 July 1899, or that of 18 October 1907, and which are parties to the present Convention, this last Convention shall be complementary to Chapter II of the Regulations annexed to the above-mentioned Conventions of the Hague.

Art. 136. The present Convention, which bears the date of this day, is open to signature until 12 February 1950, in the name of the Powers represented at the Conference which opened at Geneva on 21 April 1949; furthermore, by Powers not represented at that Conference, but which are Parties to the Convention of 27 July 1929.

Art. 137. The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Art. 138. The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Art. 139. From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

Art. 140. Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed or whose accession has been notified.

Art. 141. The situations provided for in Articles 2 and 3 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

Art. 142. Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with release and repatriation of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfill by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

Art. 143. The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

In witness whereof the undersigned, having deposited their respective full powers, have signed the present Convention.

Done at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the Signatory and Acceding States.

ANNEX I—MODEL AGREEMENT CONCERNING DIRECT REPATRIATION AND ACCOMMODATION IN NEUTRAL COUNTRIES OF WOUNDED AND SICK PRISONERS OF WAR

[See Article 110]

I.—Principles for Direct Repatriation and Accommodation in Neutral Countries

A. Direct Repatriation

The following shall be repatriated direct:

(1) All prisoners of war suffering from the following disabilities as the result of trauma: loss of a limb, paralysis, articular or other disabilities, when this disability is at least the loss of a hand or a foot, or the equivalent of the loss of a hand or a foot. Without prejudice to a more generous interpretation, the following shall be considered as equivalent to the loss of a hand or a foot:

(a) Loss of hand or of all the fingers, or of the thumb and forefinger of one hand; loss of a foot, or of all the toes and metatarsals of one foot.

(b) Ankylosis, loss of osseous tissue, cicatricial contracture preventing the functioning of one of the large articulations or of all the digital joints of one hand;

(c) Pseudarthrosis of the long bones.

(d) Deformities due to fracture or other injury which seriously interfere with function and weight-bearing power.

(2) All wounded prisoners of war whose condition has become chronic, to the extent that prognosis appears to exclude recovery—in spite of treatment—within one year from the date of the injury, as, for example, in case of:

(a) Projectile in the heart, even if the Mixed Medical Commission should fail at the time of their examination, to detect any serious disorders.

(b) Metallic splinter in the brain or the lungs, even if the Mixed Medical Commission cannot, at the time of examination, detect any local or general reaction.

(c) Osteomyelitis, when recovery cannot be foreseen in the course of the year following the injury, and which seems likely to result in ankylosis of a joint, or other impairments equivalent to the loss of a hand or a foot.

(d) Perforating and suppurating injury to the large joints.

(e) Injury to the skull, with loss or shifting of bony tissue.

(f) Injury of burning of the face with loss of tissue had functional lesions.

(g) Injury to the spinal cord.

(h) Lesion of the peripheral nerves, the sequelae of which are equivalent to the loss of a hand or foot, and the curer of which requires more than a year from the date of injury, for example: injury to the brachial or lumbosacral plexus, the median or sciatic nerves, likewise combined injury to the radial and cubital nerves or to the lateral popliteal nerve (N. peroneus communis) and medial popliteal nerve (N. tibialis); etc. The separate injury of the radial (musculo-spiral), cubital, lateral or medial popliteal nerves shall not however, warrant repatriation except in cases of contractures or of serious neurotrophic disturbance.

(i) Injury to the urinary system, with incapacitating results.

(3) All sick prisoners of war whose condition has become chronic to the extent that prognosis seems to exclude recovery—in spite of treatment—within one year from the conception of the disease, as, for example, in cases of:

(a) Progressive tuberculosis of any organ which, according to medical prognosis, cannot be cured, or at least considerably improved, by treatment in a neutral country.

(b) Exudate pleurisy.

(c) Serious diseases of the respiratory organs of non-tubercular etiology, presumed incurable, for example: serious pulmonary emphysema, with or without bronchitis; chron-

ic asthma ¹⁵; chronic bronchitis ¹⁵ lasting more than one year in captivity; bronchiectasis ¹⁵ etc.;

(d) Serious chronic affections of the circulatory system, for example: valvular lesions and myocarditis ¹⁵ which have shown signs of circulatory failure during captivity, even though the Mixed Medical Commission cannot detect any such signs at the time of examination; affections of the pericardium and the vessels (Buerger's disease, aneurisms of the large vessels); etc.

(e) Serious chronic affections of the digestive organs, for example: gastric or duodenal ulcer; sequelae of gastric operations performed in captivity; chronic gastritis, enteritis or colitis, having lasted more than one year and seriously affecting the general condition; cirrhosis of the liver; chronic cholecystopathy; etc. ¹⁵

(f) Serious chronic affections of the genito-urinary organs, for example: chronic diseases of the kidney with consequent disorders; nephrectomy because of a tubercular kidney; chronic pyelitis or chronic cystitis; hydronephrosis or pyonephrosis; chronic grave gynaecological conditions; normal pregnancy and obstretrical disorder, where it is impossible to accommodate in a neutral country; etc.

(g) Serious chronic diseases of the central and peripheral nervous system, for example: all obvious psychoses and psychoneuroses, such as serious hysteria, serious captivity psychoneurosis, etc., duly verified by a specialist ¹⁶; any epilepsy duly verified by the camp physician ¹⁶; cerebral arteriosclerosis; chronic neuritis lasting more than one year; etc.

(h) Serious chronic diseases of the neuro-vegetative system, with considerable diminution of mental or physical fitness, noticeable loss of weight and general asthenia.

(i) Blindness of both eyes, or of one eye when the vision of the other is less than 1 in spite of the use of corrective glasses; diminution of visual acuity in cases where it is impossible to restore it by correction to an acuity of $\frac{1}{2}$ in. at least one eye ¹⁶; other grave ocular affections, for example: glaucoma, iritis, choroiditis trachoma; etc.

(k) Auditive disorders, such as total unilateral deafness, if the other ear does not discern the ordinary spoken work at a distance of one metre ¹⁶ etc.

(l) Serious affections of metabolism, for example: diabetes mellitus requiring insulin treatment; etc.

(m) Serious disorders of the endocrine glands, for example: thyrotoxicosis; hypothyroidism; Addison's disease; Simmonds' cachexia; tetany; etc.

(n) Grave and chronic disorders of the blood-forming organs.

¹⁵ The decision of the Mixed Medical Commission shall be based and to a great extent on the records kept by camp physicians and surgeons of the same nationality as the prisoners of war, or on an examination by medical specialists of the Detaining Power.

¹⁶ See note on previous page.

(o) Serious cases of chronic intoxication, for example: lead poisoning, mercury poisoning, morphinism, cocaineism, alcoholism; gas or radiation poisoning; etc.

(p) Chronic affections of locomotion, with obvious functional disorders, for example: arthritis deformans; primary and secondary progressive chronic polyarthritis; rheumatism with serious clinical symptoms; etc.

(q) Serious chronic skin diseases, not amenable to treatment.

(r) Any malignant growth.

(s) Serious chronic infectious diseases, persisting for one year after their inception, for example, malaria with decided organic impairment, amoebic or bacillary dysentery with grave disorders; tertiary visceral syphilis resistant to treatment; leprosy; etc.

(t) Serious avitaminosis or serious inanition.

B. Accommodation in Neutral Countries

The following shall be eligible for accommodation in a neutral country:

(1) All wounded prisoners of war who are not likely to recover in captivity, but who might be cured or whose condition might be considerably improved by accommodation in a neutral country.

(2) Prisoners of war suffering from any form of tuberculosis of whatever organ, and whose treatment in a neutral country would be likely to lead to recovery or at least to considerable improvement, with the exception of primary tuberculosis cured before captivity.

(3) Prisoners of war suffering affections requiring treatment of the respiratory, circulatory, digestive, nervous, sensory, genito-urinary, cutaneous, locomotive organs, etc., in such treatment would clearly have better results in a neutral country than in captivity.

(4) Prisoners of war who have undergone a nephrectomy in captivity for a non-tubercular renal affection; cases of osteomyelitis, on the way to recovery or latent; diabetes mellitus not requiring insulin treatment; etc.

(5) Prisoners of war suffering from war or captivity neuroses. Cases of captivity neurosis which are not cured after three months of accommodation in a neutral country, or which after that length of time are not clearly on the way to complete cure, shall be repatriated.

(6) All prisoners of war suffering from chronic intoxication (gases, metals, alkaloids, etc.), from whom the prospects of cure in a neutral country are especially favourable.

(7) All women prisoners of war who are pregnant or mothers with infants and small children.

The following cases shall not be eligible for accommodation in a neutral country.

(1) All duly verified chronic psychoses.

(2) All organic or functional nervous affections considered to be incurable.

(3) All contagious diseases during the period in which they are transmissible, with the exception of tuberculosis.

II. General Observations

(1) The conditions given shall, in a general way, be interpreted and applied in as broad a spirit as possible. Neuropathic and psychopathic conditions caused by war or captivity, as well as cases of tuberculosis in all stages, shall above all benefit by such liberal interpretation. Prisoners of war who have sustained several wounds, none of which, considered by itself, justifies repatriation, shall be examined in the same spirit, with due regard for the psychic traumatism due to the number of their wounds.

(2) All unquestionable cases giving the right to direct repatriation (amputation, total blindness or deafness, open pulmonary tuberculosis, mental disorder, malignant growth, etc.) shall be examined and repatriated as soon as possible by the camp physicians or by military medical commissions appointed by the Detaining Power.

(3) Injuries and diseases which existed before the war and which have not become worse, as well as war injuries which have not prevented subsequent military service, shall not be entitled to direct repatriation.

(4) The provisions of this Annex shall be interpreted and applied in a similar manner in all countries party to the conflict. The Powers and authorities concerned shall grant to Mixed Medical Commission all the facilities necessary for the accomplishment of their task.

(5) The examples quoted under (1) above represent only typical cases. Cases which do not correspond exactly to these provisions shall be judged in the spirit of the provisions of Article 110 of the present Convention, and of the principles embodied in the present Agreement.

ANNEX II—REGULATIONS CONCERNING MIXED MEDICAL COMMISSIONS

[See Article 112]

Article 1. The Mixed Medical Commissions provided for in Article 112 of the Convention shall be composed of three members, two of whom shall belong to a neutral country, and third being appointed by the Detaining Power. One of the neutral members shall take the chair.

Art. 2. The two neutral members shall be appointed by the International Committee of the Red Cross, acting in agreement with the Protecting Power, at the request of the Detaining Power. They may be domiciled either in their country of origin, in any other neutral country, or in the territory of the Detaining Power.

Art. 3. The neutral members shall be approved by the Parties to the conflict concerned, who shall notify their approval to the International Committee of the Red Cross and to the Protecting Power. Upon notification, of neutral members shall be considered as effectively appointed.

Art. 4. Deputy members shall also be appointed in sufficient number to replace the regular members in case of need. They shall

be appointed at the same time as the regular members or, at least, as soon as possible.

Art. 5. If for any reason the International Committee on the Red Cross cannot arrange for the appointment of the neutral members, this shall be done by the Power protecting the interests of the prisoners of war to be examined.

Art. 6. So far as possible, one of the two neutral members shall be a surgeon and the other a physician.

Art. 7. The neutral members shall be entirely independent of the Parties to the conflict, which shall grant them all facilities in the accomplishment of their duties.

Art. 8. By agreement with the Detaining Power, the International Committee of the Red Cross, when making the appointments provided for in Articles 2 and 4 of the present Regulations, shall settle the terms of service of the nominees.

Art. 9. The Mixed Medical Commissions shall begin their work as soon as possible after the neutral members have been approved, and in any case within a period of three months from the date of such approval.

Art. 10. The Mixed Medical Commissions shall examine all the prisoners designed in Article 113 of the Convention. They shall propose repatriation, rejection, or reference to a later examination. Their decisions shall be made by a majority vote.

Art. 11. The decisions made by the Mixed Medical Commissions in each specific case shall be communicated, during the month following their visit, to the Detaining Power, the Protecting Power and the International Committee of the Red Cross. The Mixed Medical Commissions shall also inform each prisoner of war examined of the decision made, and shall issue to those whose repatriation has been proposed certificates similar to the model appended to the present Convention.

Art. 12. The Detaining power shall be required to carry out the decisions of the Mixed Medical Commissions within three months of the time when it receives due notification of such decisions.

Art. 13. If there is no neutral physician in a country where the services of a Mixed Medical Commission seem to be required, and if it is for any reason impossible to appoint neutral doctors who are resident in another country, the Detaining Power, acting in agreement with the Protecting Power, shall set up a Medical Commission which shall undertake the same duties as a Mixed Medical Commission, subject to the provisions of Articles 1, 2, 3, 4, 5 and 8 of the present Regulations.

Art. 14. Mixed Medical Commissions shall function permanently and shall visit each camp at intervals of not more than six months.

ANNEX III—REGULATIONS CONCERNING COLLECTIVE RELIEF

[See Article 13]

Article 1. Prisoners' representatives shall be allowed to distribute collective relief shipments for which they are responsible, to all prisoners of war administered by their camp, including those who are in hospitals, or in prisons or other penal establishments.

Art. 2. The distribution of collective relief shipments shall be effected in accordance with the instructions of the donors and with a

plan drawn up by the prisoners' representatives. The issue of medical stores shall, however, be made for preference in agreement with the senior medical officers, and the latter may, in hospitals and infirmaries, waive the said instructions, if the needs of their patients so demand. Within the limits thus defined, the distribution shall always be carried out equitably.

Art. 3. The said prisoners' representatives or their assistants shall be allowed to go to the points of arrival of relief supplies near their camps, so as to enable the prisoners' representatives of their assistants to verify the quality as well as the quantity of the goods received, and to make out detailed reports thereon for the donors.

Art. 4. Prisoners' representatives shall be given the facilities necessary for verifying whether the distribution of collective relief in all sub-divisions and annexes of their camps has been carried out in accordance with their instructions.

Art. 5. Prisoners' representatives shall be allowed to fill up, and cause to be filled up by the prisoners' representatives of labor detachments or by the senior medical officers of infirmaries and hospitals, forms or questionnaires intended for the donors, relating to collective relief supplies (distribution, requirements, quantities, etc.). Such forms and questionnaires, duly completed, shall be forwarded to the donors without delay.

Art. 6. In order to secure the regular issue of collective relief to the prisoners of war in their camp, and to meet any needs that may arise from the arrival of new contingents of prisoners, prisoners' representatives shall be allowed to build up and maintain adequate reserve stocks of collective relief. For this purpose, they shall have suitable warehouses at their disposal; each warehouse shall be provided with two locks, the prisoners' representative holding the keys of one lock and camp commander the keys of the other.

Art. 7. When collective consignments of clothing are available, each prisoner of war shall retain in his possession at least one complete set of clothes. If a prisoner has more than one set of clothes, the prisoners' representative shall be permitted to withdraw excess clothing from those with the largest number of sets, or particular articles in excess of one, if this is necessary in order to supply prisoners who are less well provided. He shall not, however, withdraw second sets of underclothing, socks or footwear, unless this is the only means of providing for prisoners of war with none.

Art. 8. The High Contracting Parties, and the Detaining Powers in particular, shall authorize, as far as possible and subject to the regulations governing the supply of the population, all purchases of goods made in their territories for the distribution of collective relief to prisoners of war. They shall similarly facilitate the transfer of funds and other financial measures of a technical or administrative nature taken for the purpose of making such purchases.

Art. 9. The foregoing provisions shall not constitute an obstacle to the right of prisoners of war to receive collective relief before their arrival in a camp or in the course of transfer, nor to the possibility of representatives of the Protecting Power, the International Committee of the Red Cross, or any other body giving assistance to prisoners, which may be responsible for the forwarding of such supplies, ensuring the distribution thereof to the addresses by any other means that they may deem useful.

ANNEX IV

A. IDENTITY CARD

(see Article 4)

NOTICE This identity card is issued to persons who accompany the Armed Forces of the person to whom it is issued. If the bearer is taken prisoner, he shall at once hand the card to the Detaining Authority, to assist in his identification.		Fingerprints (optional) (Left forefinger) _____ (Right forefinger) _____		Any other mark of identification _____
		Blood type _____ Official seal _____		
Height _____	Weight _____	Eyes _____	Hair _____	
Photograph of the bearer		(Name of the country and military authority issuing this card) IDENTITY CARD FOR A PERSON WHO ACCOMPANIES THE ARMED FORCES		
		Name _____ First names _____ Date and place of birth _____ Accompanies the Armed Forces as _____ Date of issue _____ Signature of bearer _____		

Remarks. — This card should be made out for preference in two or three languages, one of which is in international use. Actual size of the card: 13 by 10 centimetres. It should be folded along the dotted line.

ANNEX IV
B. CAPTURE CARD
(see Article 70)

L. Frost

<u>PRISONER OF WAR MAIL</u>	Postage free
CAPTURE CARD FOR PRISONER OF WAR	
IMPORTANT This card must be completed by each prisoner immediately after being taken prisoner and each time his address is changed (by reason of transfer to a hospital or to another camp). This card is distinct from the special card which each prisoner is allowed to send to his relatives.	CENTRAL PRISONERS OF WAR AGENCY INTERNATIONAL COMMITTEE OF THE RED CROSS GENEVA SWITZERLAND

2. Revised title

Write legibly and in block letters

1. Power on which the prisoner depends _____

2. Name _____

3. First names (in full) _____

4. First name of father _____

5. Date of birth _____

6. Place of birth _____

7. Rank _____

8. Service number _____

9. Address of next of kin _____

*10. Taken prisoner on: (or)
Coming from (Camp No., hospital, etc.) _____

*11. (a) Good health—(b) Not wounded—(c) Recovered—(d) Convalescent—
(e) Sick—(f) Slightly wounded—(g) Seriously wounded.

12. My present address is: Prisoner No. _____
Name of camp _____

13. Date _____

14. Signature _____

* Strike out what is not applicable—Do not add any remarks—See explanations overleaf.

Remarks.—This form should be made out in two or three languages, particularly in the prisoner's own language and in that of the Detaining Power. Actual size: 15 by 10.5 centimetres.

ANNEX IV
C. CORRESPONDENCE CARD AND LETTER
(see Article 71)

1. Front

1. Front

POST CARD

PRISONER OF WAR MAIL

Postage free

To _____

Sender:
Name and first names _____

Place and date of birth _____

Prisoner of War No. _____

Name of camp _____

Country where posted _____

Place of Destination _____

Street _____

Country _____

Province or Department _____

Reverse index

a. Reverse side.

NAME OF CAMP _____ **Date** _____

Write on the dotted lines only and as legibly as possible.

Remarks.—This form should be made out in two or three languages, particularly in the prisoner's own language and in that of the Detaining Power. Actual size of form: 15 by 10 centimetres.

ANNEX IV

C. CORRESPONDENCE CARD AND LETTER

(see Article 71)

2. LETTER

PRISONER OF WAR MAIL

Postage free

To _____

Place _____

Street _____

Country _____

Department or Province _____

Country where posted _____

Name of camp _____

Prisoner of War No. _____

Date and place of birth _____

Name and first names _____

Sender: _____

Remarks.—This form should be made out in two or three languages, particularly in the prisoner's own language and in that of the Detaining Power. It should be folded along the dotted line, the tab being inserted in the slit (marked by a line of asterisks); it then has the appearance of an envelope. Overleaf, it is lined like the postcard above (Annex IV C 1); this space can contain about 150 words which the prisoner is free to write. Actual size of the folded form: 29 by 15 centimetres.

ANNEX IV

D. NOTIFICATION OF DEATH

(see Article 120)

NOTIFICATION OF DEATH

(Title of responsible authority) _____

Power on which the prisoner depended _____

Name and first names _____

First name of father _____

Place and date of birth _____

Place and date of death _____

Rank and service number (as given on identity disc) _____

Address of next of kin _____

Where and when taken prisoner _____

Cause and circumstances of death _____

Place of burial _____

Is the grave marked and can it be found later by the relatives? _____

Are the personal effects of the deceased in the keeping of the Detaining Power or are they being forwarded together with this notification? _____

If forwarded, through what agency? _____

Can the person who cared for the deceased during sickness or during his last moments (doctor, nurse, minister of religion, fellow prisoner) give here or on an attached sheet a short account of the circumstances of the death and burial? _____

(Date, seal and signature of responsible authority.) _____

Signature and address of two witnesses _____

Remarks.—This form should be made out in two or three languages, particularly in the prisoner's own language and in that of the Detaining Power. Actual size of the form: 21 by 30 centimetres.

ANNEX IV—E. REPATRIATION CERTIFICATE

[See Annex II, Article II]

REPATRIATION CERTIFICATE

Date:
Camp:
Hospital:
Surname:
First names:
Date of birth:
Rank:
Army number:
P. W. number:
Injury-Disease:
Decision of the Commission:

Chairman of the
Mixed Medical Commission.

A = direct repatriation
B = accommodation in a neutral country
NC = re-examination by next Commission

ANNEX V—MODEL REGULATIONS CONCERNING PAYMENTS SENT BY PRISONERS TO THEIR OWN COUNTRY

[See Article 63]

- (1) The notification referred to in the third paragraph of Article 63 will show:
- (a) number as specified in Article 17, rank, surname and first names of the prisoner of war who is the payer;
 - (b) the name and address of the payee in the country of origin;
 - (c) the amount to be so paid in the currency of the country in which he is detained.
- (2) The notification will be signed by the prisoner of war, or his witnessed mark made upon it if he cannot write, and shall be countersigned by the prisoners' representative.
- (3) The camp commander will add to this notification a certificate that the prisoner of war concerned has a credit balance of not less than the amount registered as payable.
- (4) The notification may be made up in lists, each sheet of such lists witnessed by the prisoners' representative and certified by the camp commander.

HEARING ON THE PARIS PEACE ACCORDS

TUESDAY, SEPTEMBER 22, 1992

U.S. SENATE,
SELECT COMMITTEE ON POW/MIA AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 9:05 a.m., in room SH-216, Hart Senate Office Building, Hon. John F. Kerry (chairman of the committee) presiding.

Present: Senators Kerry, Smith, Daschle, Robb, Kerrey, Kohl, McCain, Brown, Grassley, and Kassebaum.

OPENING STATEMENT OF HON. JOHN F. KERRY, U.S. SENATOR FROM MASSACHUSETTS

Chairman KERRY. The hearing of the Senate Select Committee on POW/MIA Affairs will come to order. The committee meets this morning for the second round of 3 days of hearings concerning the Paris Peace Accords and the issue of Americans listed as missing in action or taken prisoner in Southeast Asia.

We heard yesterday from a long and very distinguished list of witnesses, including two former Secretaries of State, a former Secretary of Defense, and the principal members of Dr. Henry Kissinger's negotiating team. We heard a variety of views and personal recollections about issues that are central to the investigation of this committee.

I think it is fair to say that their testimony, along with accompanying depositions of more than 60 people now and many, many interviews and thousands of documents, have greatly enhanced our sense of what really happened during those critical months when war, peace, and the fate of our POW/MIAs were on the bargaining table.

As I said yesterday—and I know this is difficult, I wish there was a way to make it easy, and it is not and we acknowledge that. But we are not here seeking to re-fight the Vietnam War. We are not trying to renegotiate the peace agreement or to reopen wounds of that era, as difficult as it is to avoid them. I think everybody understands how even in 1992 there is much of that war that is still with us. We also are not trying to question dedication or patriotism or commitment to the task that existed back in 1972.

All Americans of a certain age, whether Senators or former Government officials, POW families, veterans, or just plain citizens, bring to any discussion of Vietnam a set of emotions and memories, some of which may be among the strongest and most vivid of a lifetime. We cannot ignore or deny those memories, or simply wish

them out of existence, but neither should we let them control or influence the purpose or integrity of this committee's work.

Contrary to some false and disturbing press reports of recent days which I would characterize not as leaks, but as clear misrepresentations or lies, this committee does not enter today's hearing with a set of preconceived notions or with a specific theory that we are trying to prove, just as we have not yet arrived at any firm conclusions about other aspects of this issue.

We remain in the process of gathering information and insights and trying to understand why certain things were done, why certain things were not done, what options were available to those who had the tough task of making decisions at one of the toughest times in American history.

As some of our witnesses said yesterday, and as anyone who has lived through that period can attest, the pressures on those trying to make those decisions were enormous. The pressures on our negotiators during those critical years were real and unavoidable.

We had a President elected in 1968 who took office in 1969 on a pledge to end U.S. participation in the war. We had a public hungry for that moment, anxious for the goal to be achieved. We had a complex set of political and military objectives throughout Indochina that were at risk. We had a very determined and skillful adversary, and we had tantalizing but imperfect information about the number and status of prisoners in Vietnam, Cambodia, and Laos.

I repeat again today so that the record of this committee's work is not misunderstood and not subject to a sensationalism that easily accompanies this issue, we have said again and again that we are trying to narrow the universe of possibilities. What did our people know in 1972 or 1973 which might have prompted them to make one decision or another?

This committee has not received what I would call—and I emphasize I, personally and individually as one Senator on the committee—what I would call clear and convincing evidence beyond a reasonable doubt, the hardest of evidence, whatever you want to frame it—but evidence that states unequivocally that we knew someone was being held in a specific place with a specific name at a specific time; we do not have that, nor did our negotiators or decisionmakers have that in 1972 or 1973. Excuse me, they did have it as to some prisoners, not all.

What we have are indications of people that we knew to be prisoners at a certain point in time, or that we had reason to believe were prisoners at a certain point in time, who were not accounted for at that moment and who even today remain unaccounted for.

We narrowed a universe of possibilities of what people might have known at the end of the war to about 244 people, with names, about whom there were serious questions. That was quickly reduced by the number of 111 by the debriefings of prisoners who returned, and so we were left with this universe, as we call it, of about 133 names. General Vessey has likewise reduced a list to about 135. I might add that the Pentagon, the DIA, originally had a list of about 269. So everybody has sort of narrowed a list down.

The question before this committee centers around those people about whom we knew something, or had reason to know something,

and centers around the possibilities that exist with respect to those people. It is clear also that paramount among the pressures of that time, when the agreement was signed and implementation began, was the energy and attention-sapping saga of Watergate.

The intent of this committee is not to understate these pressures but to understand them and to understand how they contributed to the reason that we are here today almost 20 years later. The fact is that we are trying to understand the questions that by all logic and right should have been answered, and could have far more easily been answered then. And we are trying to deal with the issues that I set out with respect to those people about whom we have serious questions.

We are also here to ask why it is that Americans came to believe, as the President suggested, that all American POWs were on their way home at a specific point in time when, as we were told yesterday and in previous testimony by many high officials, there were very serious doubts at the highest level of Government that some POWs were not making that trip at that time, but rather might still be there.

These are the key questions. A lot has been said and written about the man the committee will hear from today, but the one thing that has never been said about him is that he was out of the loop. Dr. Kissinger was the principal U.S. negotiator on the Paris Peace Accords and by far the most influential figure in American foreign policy, aside from the President himself, during the final years of the war.

I think I speak for the entire committee, Dr. Kissinger, when I say that we deeply respect the breadth and scope of your accomplishments during your time in public life. We appreciate the time and effort you have made to assist us in our work. We understand that it is not pleasant to have these questions on the table 20 years later.

The record should reflect that Secretary Kissinger appears today, as he has at every stage of this investigation, voluntarily and with a desire, I know, to help this committee understand the important work that we have before us.

Vice Chairman Smith.

STATEMENT OF HON. ROBERT SMITH, U.S. SENATOR FROM NEW HAMPSHIRE

Vice Chairman SMITH. Thank you, Mr. Chairman. I do understand that we are supposed to have a vote around 9:30 which will cause an interruption for a few minutes, Dr. Kissinger. It may interrupt your statement, or maybe it will not, maybe we will not get there by that point.

But I want to thank you for voluntarily agreeing to come to speak before the committee today. The purpose is for us to try to understand what happened in 1973 and why 20 years later we still have discussions about whether or not we have achieved the fullest possible accounting of our POWs and MIAs from Vietnam and Laos.

The issue, I think, that we need to look at here is did, in fact, the Vietnamese hold back or the Lao hold back on information and

possibly live American POWs. I have read your deposition. I know these were very painful and difficult times, probably the most difficult negotiations you ever entered into. I respect that and I respect what you had to go through on behalf of our Nation. I want you to know that I appreciate your dedication, and the dedication of the President throughout the negotiations, to try to find a solution.

I think it is important to understand the politics of the times, people in the streets protesting the war, 300 men dying every week. And those were the times that you entered onto the political scene with the President, and there was a great amount of political pressure to end the war, trying to end the war in an honorable way. And you proceeded into negotiations to try to do that, since there did not seem to be the political will to win it militarily.

So these were difficult times, and you insisted on many matters concerning POWs and MIAs in those negotiations. And the issue, as far as I am concerned, is did the Vietnamese and the Lao respond to what you insisted on. I think that is really the issue.

I want to know what were the areas that the Vietnamese refused to comply with, what agreements did you make with them that they did not comply with. And this, I hope, will shed some light on why we have not been able to receive a full accounting 20 years later. Things have happened over the past 20 years which, as we look back, we have to see why this accounting has not taken place.

Let me give you a couple of examples. Intelligence: there was intelligence, as we heard from testimony yesterday, that was presented to the highest level officials, including yourself, in the Administration, indicating that there were POWs in Laos and certainly in Vietnam. That was supported yesterday in the testimony, that that intelligence they felt was good intelligence.

Second, over the past 20 years we have continued to receive—right or wrong, whether they are good or bad, that seems to be debated—live sighting reports from refugees who have left Vietnam, the boat people. All these things happened long after the Accords, and we had no way of knowing what these people knew or what they saw until they came out.

Third, there are other sources of intelligence which have come to the committee and to the Government. Again, a debate over whether that is good intelligence or bad intelligence, but indicating that there may have been live Americans. Mr. Garwood came out after the war was over, 6 years after. He claims to have seen Americans. He certainly was a live American who was not negotiated out during the Paris Peace Accords. I think most recently, yesterday when some of the top aides indicated that they felt that Americans were not accounted for.

I might say in some respectful disagreement with the chairman, there is information and evidence before the committee on specific individuals. The question is is that information valid, and that is what we are trying to determine. And that is the role of the committee to do that.

So I hope that we will be able to get some answers, Dr. Kissinger. And, again, I want to thank you for coming today.

Chairman KERRY. Thank you very much, Senator Smith. I might just add we are not in disagreement on that. There is information; the question is—

Vice Chairman SMITH. Well I think it is evidence, but we will debate that.

Chairman KERRY. Senator McCain, do you have an opening statement.

Senator McCAIN. No.

Chairman KERRY. Senator Kerrey.

STATEMENT OF HON. J. ROBERT KERREY, U.S. SENATOR FROM NEBRASKA

Senator KERREY. Mr. Chairman, my statement really is directed at an awful lot of questions that I have received about why this committee is doing the work that it is doing. Former Secretary of State Haig, in his inimitable way, yesterday made the point loud and clear.

I know many Americans still question what this committee is doing. And in particular, I know that there are many who feel we are wasting our time delving into decisions that were made 20 years ago. They wonder whether our time would not be better spent working to reduce the deficit, to promote economic recovery, or to solve the problems of health care, urban decay, or the deteriorating lives of our children.

The question that is asked, this question, acquires an edge because many Americans who served our country in World War II or in Korea are often puzzled as to why Vietnam is so different. There were more missing in action after their wars without it becoming an issue, and thus they ask why then such a fuss about the missing in action in Vietnam.

The answer became clear yesterday in the testimony before this committee by two former Secretaries of Defense and one former Secretary of State. Both Secretary Schlesinger and Secretary Laird said they now believe American prisoners were left behind in 1973. Even Secretary Haig, who was critical of the work of this committee, believes it is likely Americans were still alive in 1973.

This fact, now revealed as true in 1992, was not the official policy of the U.S. Government after March 29, 1973 when President Nixon said all our men were on their way home. It was not the official position after President Nixon met with Dr. Roger Shields, the man charged with the responsibility at the Department of Defense for accounting for our prisoners and missing—after he and President Nixon met on April 11, 1973.

The question today for this committee is how could this have happened? Several witnesses who were appointed policymakers in 1973 have identified Watergate as the culprit. They believe the United States would have forced North Vietnam to abide by the terms of the peace treaty had President Nixon not been weakened and distracted by the scandal of Watergate. Perhaps this is true.

It also seems likely to me their attitude toward informing the public, coupled with their obsessive desire and need for secrecy, led to information about our missing being withheld from the American people. While they were trying to keep information about Watergate secret, they were also trying to keep information about our missing in action secret. The faulty judgment which resulted in one tragedy also produced a second.

Chairman KERRY. Thank you very much, Senator Kerrey.
 Senator McCAIN. Mr. Chairman, I do have an opening remark.

STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM
 ARIZONA

Senator McCAIN. Mr. Chairman, I know of no information before this committee that indicates that the Nixon administration or any other administration was attempting to keep any information secret. I have paid close attention to these hearings.

I also would like to point out, in response to your statement, that one of the reasons, perhaps, that many Americans have believed for a long time that there were not any Americans left alive in Southeast Asia is a result of two commissions. One, the Woodcock Commission, which was appointed during the Carter administration, and the Montgomery Commission, headed by one of the most respected men in the Congress of the United States, Congressman Montgomery.

Both of those commissions concluded and unequivocally stated that there were no Americans alive left in Southeast Asia. So if we are completing the universe, as seems to be the buzzword around here, I think that it is very important to add that into this equation as we review the history of this situation.

Two commissions—two, not one—one headed by Leonard Woodcock, the other headed by Congressman Montgomery, both concluded unequivocally that there were no Americans left alive in Southeast Asia. Now that may not be the case, as we are discovering today.

I also think—and I am sorry I was not here yesterday, I apologize—that if both former Secretaries of Defense knew or believed at the time that there were Americans left in Southeast Asia, then I think they have a great deal of answering to do as to why they did not do more, especially before the Woodcock and Montgomery Commissions, to bring these concerns or their beliefs to light. Certainly, they could have made those inputs, not only to the American people, but to those two commissions.

I thank you, Mr. Chairman.

Chairman KERRY. Thank you very much, Senator McCain.

Senator KERREY. Mr. Chairman, if I might respond.

Chairman KERRY. Mr. Kerrey.

Senator KERREY. I mean I must say that I think that the attitude of this committee in many ways is as important as the attitude of our witnesses. And where there are differences of opinion, it seems to me that we should air them so the public knows. My accusation about information being withheld is not an accusation that I make lightly.

The fact of the matter is we have just received thousands of new documents that have previously been classified. One of those documents related to an offer of monetary assistance. Congressman Montgomery asked at the time of his investigation was an offer of monetary assistance made, and he was told no. So an awful lot of the information that we are now getting in fact was withheld.

Senator McCAIN. That is simply not true.

Chairman KERRY. Senators, if I can interrupt. We want to hear from Secretary Kissinger, but this will be the stuff of our deliberations over the course of the next weeks. I think you are both correct, to be honest with you. The commissions did exactly what Senator McCain has said. There has been a long history of lack of answers.

I think President Bush deserves credit for having released a significant amount, a huge amount, of information. General Scowcroft has made himself available, as I said yesterday, willingly to the committee for great long hours. We have documents we never had before, some of them not exactly in his or other people's best interests in terms of embarrassing or difficult moments to deal with. So I think the process is proceeding, and I think our report will be able to deal with those issues.

Secretary Kissinger, thank you for taking the time to be with us. We look forward to your opening statement.

TESTIMONY OF DR. HENRY KISSINGER, NATIONAL SECURITY
 ADVISOR, 1969-1975; SECRETARY OF STATE, 1973-1977

Dr. KISSINGER. Mr. Chairman, may I begin by making a few observations about the comments I have heard here before I make my opening statement. Perhaps if that takes us into the time of the vote I could respectfully ask you to let me make my entire statement after the vote.

Chairman KERRY. Mr. Secretary, could I interrupt you. I apologize. We are swearing all witnesses who appear before the committee, and I would ask if I could swear you as I have everyone. Would you raise your right hand?

Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Dr. KISSINGER. I do.

As I get on in years, my memory may not be as perfect as I'd like it to be, so I may not remember every last thing that was said by the distinguished Senator and not reply to each of the points. But I'll try to make a brief comment.

First of all, Mr. Chairman, I appreciate what you said about the mood and the attitude of this committee. And as you know, when you first called me about this I pledged full cooperation on a matter of the greatest anguish to all of us who were on the firing line during those 5 years of negotiation and the 20 years afterwards. I hope that the staff of this committee and the staff of the Senators, some of whom have been so actively putting out what you yourself called misrepresentations, will take this to heart and that we will stop seeing these loaded news stories that accuse people who try to serve their country to the best of their abilities of knowingly leaving prisoners behind, which is the most dishonorable accusation that can be made.

We have had many disagreements on policy, and honorable people will differ about this. But on the fate of our prisoners, Mr. Chairman, there can be no division. We had all an equal concern. And to accuse senior members of an Administration that after all brought them home, knowingly to have colluded with keeping prisoners back—I'm not saying the committee has done it, but sources

that are close to this committee have leaked these stories and I can supply you these stories—I would respectfully request that an end be put to this.

Now, on your statement, Mr. Chairman, that President Nixon promised to end the war, I was not in Mr. Nixon's entourage during the campaign, as is well-known. I had supported his opponent within the Republican Party. But I believe he kept his promise. It took longer than any of us had hoped because we were dealing with an extraordinarily difficult enemy and with an extremely difficult domestic situation. But there is no question about the dedication to ending the war and succeeding in ending the war.

Now, with respect to the missing, there's really, as I see it, only one difference between us. Nobody ever questioned that the accounting for the missing was unsatisfactory. We raised it at least 30 times during 1973. The only difference is that we did not know of confirmed prisoners. And had we known it, we would have taken the most drastic steps. As I will say in my statement, but it is better clearly understood now, I advocated the resumption of military operations to enforce the agreement starting in the middle of March, 1973. So we're talking of a period of 5 weeks between the end of the war and my conviction that we should bomb. Then, as I will explain in my statement, there were certain tactical differences between President Nixon wanting another negotiation and my more academic approach, and I believe that President Nixon was essentially from an overall point of view wise in not taking my initial recommendation.

I therefore cannot accept, Senator Kerrey, that information was knowingly kept from the American public. Nobody had a monopoly of anguish in that period. Nobody had any conceivable interest in deceiving the American people. I met with the families regularly during this period, and Sybil Stockdale will tell you I went out of my way never to promise anything that I wasn't sure we could deliver.

I read what Secretary Schlesinger and Secretary Laird were saying. I didn't quite follow exactly what Secretary Laird was saying, but that's nothing new to me.

[Laughter.]

Dr. KISSINGER. But Secretary Schlesinger and Secretary Laird were comrades of mine through very difficult periods. We had our normal quota of turf battles and disagreements. And when you have two academics like Schlesinger and me in the same general area, you will get some—shall we say unnecessary tensions, at least tensions you can't explain later. Nevertheless, those are great patriots. But I call your attention to the fact that Secretary Schlesinger said to his present knowledge there were prisoners left behind.

He was head of the CIA when all of this happened, and then he was Secretary of Defense. Those of you who remember that period will know that Secretary Schlesinger was not exactly shy in expressing his disagreements with the views of the administration. I do not believe you can find one memorandum, one phone conversation, one meeting, or one anything in which he expressed at the time the views he expressed yesterday. And I can assure you, if we had known, if we had heard this, we would have acted on it, be-

cause nobody was more dissatisfied with the performance of the Vietnamese than I. Nobody was more eager to enforce the agreement. Unfortunately, the decisions made by this body prevented us from enforcing the agreement.

I don't think we should have a debate now about who was at fault. But I also think we should maintain the honor of those who tried to serve their country and, after all, brought the prisoners back.

Chairman KERRY. Thank you, Mr. Secretary. I note that the vote is indeed on. Your timing is impeccable. What I recommend is—you have a more formal statement you want to make, is that correct?

Dr. KISSINGER. Yes.

Chairman KERRY. Why don't we recess for the purpose of the vote and come back and receive your statement?

We stand in recess.

[Recess.]

Chairman KERRY. The hearing will come to order.

Mr. Secretary, we welcome now your opening statement. We will have to, in the interest of time, hold you to the 25 minutes I think that we have allotted, if that is possible.

Dr. KISSINGER. No, I think, Mr. Chairman, I warned Mr. Codinha that it might take me somewhat longer, and I will do the best I can. I'm trying to deal with a lot of complicated issues that have been raised.

Chairman KERRY. I thought that the 25 minutes had been agreed on. That was what you suggested in your deposition. I just think that—I mean, if I could say in the interest of the hearing that I do not want to deny you the opportunity to say anything, obviously, and we have a good day ahead of us. My suggestion is that in the course of questioning and with a good dialog, I would imagine, recognizing your skills at this, that you would be able to insert most of the points. But I do not want to deny you the 25 minutes. I just would hate to see the committee use up the morning without getting into questions.

Dr. KISSINGER. No, that won't happen, Mr. Chairman.

Chairman KERRY. Then why do not we proceed?

Dr. KISSINGER. So many comments have been made. I will try to cut out what I can, but I do believe that in the light of all the stories that have appeared in newspapers—

Chairman KERRY. Well, I think that is fair. I appreciate it.

Dr. KISSINGER [continuing]. I should be given an opportunity to give a comprehensive account.

Mr. Chairman and gentlemen of the committee: 23 years ago the President of the United States did me the great honor of asking me to be the principal negotiator for ending the war in Vietnam. I might add, there were not too many applicants for that position. When the administration in which I served entered office it found 550,000 soldiers in Vietnam. 31,000 had already died there. We faced a ruthless enemy without any regard for human life or elementary principles of treatment of the captured.

From the day we entered office, we had no more consistent goal than the release of the brave Americans held prisoner throughout Indochina and a full accounting of their missing colleagues. The

negotiating record makes clear that this matter was insistently raised with the North Vietnamese. Despite Hanoi's protestations, we demanded that Hanoi guarantee the release of American POWs in Laos and Cambodia and assist in accounting for our MIAs.

There was no issue on which American officials, from the President on down, were more adamant. For us on the negotiating team, it was a painful process because we all had many friends on the other side of the national debate. We went through exhausting negotiations, sustained by the hope that our effort would reconcile those who gave priority to peace with those who gave priority to their concept of honor, recognizing the anguish of both sides.

After nearly 4 years of grueling negotiations, it was my privilege on January 23, 1973, to initial the agreement to end the war that required the return of all prisoners throughout Indochina and an accounting for the missing. I am proud of what my associates and I accomplished.

All of us on that negotiating team remember the exaltation on October 8, 1972 after Le Duc Tho accepted President Nixon's public proposal of May 8, 1972, and we knew that the end of the war was in sight. One of our note-takers, Mary Stifflemire, insisted on working for a 20-hour negotiating session without relief because she wanted the honor of being present when we culminated 4 years of anguishing efforts.

Yet here we are 20 years later being pilloried in leaks without a shred of evidence, with the unforgivable libel that we knowingly abandoned the very group whose suffering was the biggest single incentive for our exertions.

The Paris accords were a major diplomatic accomplishment for America. As part of the accords we demanded, and finally received from Hanoi, agreements which specifically made the withdrawal of American forces dependent on the release of our prisoners and assurances of Hanoi's assistance in the accounting for our missing.

Monday morning quarterbacks can argue that the Paris Peace Accords were not perfect. I agree. To me, the ideal outcome would have been an American victory. But, Mr. Chairman, we had to deal with the war in the specific circumstances we faced. Even with the perspective of 20 years, I am convinced that in those circumstances, no better agreement was obtainable.

For example, just as I was leaving for the final negotiations in January 1973, the House and Senate Democratic caucuses each passed, by very large margins, resolutions calling for legislation to cut off all funds for the war.

I challenge those flaunting their 20/20 hindsight to say how they could have gotten better terms in that charged political atmosphere. What precisely would they have been willing to do to achieve what particular changes and at what cost? Moreover, since Congress removed both incentives and penalties for Hanoi's compliance, how exactly would any achievable amendment have changed Hanoi's behavior?

This is not the first time the Congress has examined this issue. Sixteen years ago in 1976, the bipartisan House Select Committee, after a 15-month examination under the distinguished Chairman Montgomery, concluded that "the provisions of the Paris Peace Agreement relative to POWs and MIAs and the Protocol on Prison-

ers and Detainees appear, at first glance and after more thoughtful consideration, not only adequate but excellent." The accords, stated the Montgomery report, "constitute an achievement of which the American negotiators and the American people could be proud. Their true success, however, depended on their implementation, and their implementation depended on the cooperation of all parties."

That is precisely the point. The problem with the Paris accords was not with the words, but with their implementation by Vietnam. From the very start, Hanoi began violating the accords. The record shows clearly that while the Executive Branch tried strenuously to bring pressure on Hanoi, in particular those relating to POWs and MIAs, the U.S. Congress even more vigorously, and successfully, undercut our ability to enforce those accords. In light of this record, it hardly becomes the present Congress to accuse the 1970's Executive Branch of not doing enough.

I am amazed to see press stories hinting darkly about prisoners abandoned by their own Government. There has been talk of conspiracy extending through five administrations. Leaks asserted that when President Nixon announced that all prisoners were on the way home, he or his aides knew that many were left behind. That allegation is a flat out lie.

What has happened to this country that a congressional committee could be asked to inquire whether any American official of whatever Administration would fail to move heaven and earth to fight for the release of American POWs and for an accounting of the missing? Can anyone seriously believe that any honorable public official would neglect America's servicemen, and especially those who suffered so much for their country or, even worse, arrange for a conspiracy to obscure the fate of the prisoners left behind?

Personally, I have no proof whether Americans, live Americans, were kept behind by Hanoi. The Vietnamese are certainly capable of such a cynical act, and of lying about it. If any prisoners were held back, however, there can be only one guilty party: The Vietnamese Communists who flagrantly and unforgivably would have violated solemn and clear-cut agreements. If any such proof is found by this committee, all Americans will unite to demand redress.

The committee owes it to the country and, above all, to the families of the MIAs to dispel the misapprehension that every unaccounted for missing person was necessarily a Vietnamese or Laotian captive. While I was in office, we did receive some reports alleging that live Americans were still in Indochina. I can assure you that all those reports were taken seriously. No confirmed report of living American prisoners ever crossed my desk, although I am not saying they did not exist. At the time, returning prisoners stated that they believed all prisoners had been released.

I have already commented about Secretary Schlesinger's statement which is not supported by any contemporaneous expression of his at the time, though it may well be, and is obviously his best judgment 20 years after the event.

The committee also owes to the American people a statement of this simple truth. Some prisoners may—I repeat, may—have been

kept behind by our adversaries in violation of solemn commitments. No prisoners were left behind by the deliberate act or negligent omission of American officials. Anyone suggesting otherwise is playing a heartless game with the families of the MIAs.

I recognize that Vietnam evoked deep differences about its purpose and its strategy by serious and honorable people on all sides. But to tear the scabs of the Vietnam War in such a manner would be unconscionable.

Now, let me deal with the political background of the peace negotiations. When the Administration in which I served came into office, it found half a million Americans fighting in a region far removed from the United States. Casualties had reached the level of about 300 a week. Four years later, we had withdrawn 95 percent of these troops unilaterally, and reduced casualties by 98 percent.

We began negotiating in 1969. One of the highest priority demands, which we consistently declared to be nonnegotiable, was the release of all prisoners throughout Indochina, and a full accounting for the missing. For not withdrawing more unconditionally we were harassed by protesters, attacked in the media, criticized in countless congressional resolutions, and ridiculed for our concept of national honor.

Never once did we receive any criticism from any source of the kind now emerging from this inquiry. The pressures we experienced were all in the other direction—that we were not making enough concessions, that we should withdraw unilaterally.

By 1972, there was a steady drum fire of public statements and editorials urging the immediate withdrawal of our forces. I am submitting to this committee an appendix (appendix A) which has a selection of media comments.

There were also numerous congressional resolutions. Most were "sense of the Congress" resolutions which were not binding. But whether they passed or not, they were all known to the Vietnamese and weakened our negotiating position. 35 of these resolutions were introduced in 1972 alone. I am providing the committee a list of the resolutions introduced in 1972 in appendix B.

During this period many political leaders, including Senator McGovern and 30 other U.S. Senators, were calling for unconditional, unilateral withdrawal of American forces from Vietnam without any formal North Vietnamese commitment or the concurrent or even subsequent return of our MIAs and POWs, or accounting for the missing in action.

Let me add here that Senator McGovern was always a friend of mine. I strongly disagreed with his views. I do not attack his motives or his patriotism. It was an honorable disagreement.

At the same time, members of the American peace movement were spreading the word that they had been told by the North Vietnamese that setting a deadline for our withdrawal would create favorable conditions for the subsequent release of American prisoners of war.

Our Administration knew from its secret talks what Hanoi's real position was, and that was that we should set a withdrawal unilaterally and independent of all other conditions. Then, while American troops were being withdrawn, they would negotiate about a cease-fire, the overthrow of the Saigon Government, and only at

that point the release of our prisoners. Only when our leverage was in the process of being dismantled, while the Saigon Government was disintegrating, in the absence of a cease-fire, would we be permitted to talk about our prisoners under conditions of unspeakable chaos.

I will skip some other of the details. I would like to point out that we rejected the consistent North Vietnamese demand to overthrow the Saigon Government both for reasons of honor and on practical grounds. There were 700,000 Saigon troops, close to 500,000 Communist troops including guerrillas. If Saigon collapsed, the residual American force would become hostage. The number of our prisoners would increase exponentially.

In the end, we achieved the terms we set out to obtain, and which our critics had repeatedly told us were unattainable. In the process, we dramatically improved the conditions for the return of American forces. We demanded and obtained promises to release all prisoners, and to assist in the accounting of MIAs throughout Indochina. We related the return of prisoners to coordinated American withdrawals. We demanded and obtained important commitments designed to prevent the reinforcement and supply of North Vietnamese forces in South Vietnam which would have atrophied had the agreement been permitted to be enforced. We separated the release of our prisoners from the fate of so-called political prisoners. To encourage compliance with these commitments we held out the inducement first offered by President Johnson in 1965, and frequently reiterated since, at least three times by President Nixon in 1972, of economic aid to North Vietnam.

Mr. Chairman, this is the record. Yet leaks from this inquiry have been suggesting that those who refused to abandon America's Vietnamese allies supposedly abandoned American prisoners; that those who husbanded the leverage necessary to bring about the release of American prisoners were insufficiently attentive to the fate of the remaining missing in action; that those who were prepared to use force to compel Hanoi's compliance were guilty of not doing enough to enforce the agreements.

One day an author will write a play about this bizarre reversal of roles drawn straight from Kafka. Mr. Chairman, while it may make good theater, it is bad and cynical history.

Let me now turn to the implementation of the agreements. The North Vietnamese, in what turned into a constant pattern, immediately began to violate the agreement, especially with respect to a full accounting of MIAs. They did not hand over the POW list for Laos as required on January 27.

In response, we delayed delivery to them of the confidential Presidential letter on recommending to Congress reconstruction assistance after peace had been established. The letter was kept confidential only to prevent a linkage between the agreement and what we presented as a unilateral American act. Presidential report to the Congress in February 1972 had affirmed this undertaking, and gave a figure of \$2.5 billion. It was again repeated in the Presidential speech of May 8, 1972.

Mr. Chairman, some suggestions have been made, including this morning, that the North Vietnamese may have withheld some

American prisoners in an effort to get this economic aid. I find this reasoning difficult to understand.

First of all, it had been our constant position that we would never give aid to ransom our prisoners, nor did we want the North to be able to portray any such aid as reparations, as the record makes abundantly clear. We had so structured the implementation of the Paris Accords that the major part of the aid discussions would not even start until all prisoners had been returned.

Finally, it is curious that Americans would make such an argument when the North Vietnamese did not. As the bipartisan House Select Committee reported in 1976, not once in all their discussions with the North Vietnamese, did they cite the American failure to provide economic aid as an excuse for their failure to provide a complete accounting. They have never denied their obligations. They have only denied that they have prisoners. Why should Americans now put forward an alibi for Hanoi which even Hanoi has never asserted?

We made clear our dissatisfaction with the Laos list immediately. Secretary of State Rogers testified before the Senate Foreign Relations Committee on February 8, 1973, and again on February 21 that we did not regard the list as complete.

I will not read here all the protests we made, which I think amounted to about 30 in 1973 alone. I described the list of 80 discrepancies in my memoirs, and so I am somewhat surprised that they are presented as a great discovery 10 years after I wrote about them. But we presented that list within less than 2 weeks of having received the Laos list of February 1, we presented the discrepancies in Hanoi on February 10-11.

Meanwhile, the North Vietnamese were violating—incidentally, I'm skipping parts of my statement. But, of course, I stand by the statement as it has been submitted to you.

Chairman KERRY. Mr. Secretary, we will put the full statement in the record as if read.

Dr. KISSINGER. Meanwhile, the North Vietnamese were violating other provisions of the agreement through massive illegal movement of troops and material across the DMZ and down the Ho Chi Minh Trail. During March, we registered a number of protests. They regularly and disingenuously reported that they were innocent of all charges. We rejected their replies, as we said in a message, as an insult to our intelligence.

On March 29, President Nixon announced that all of our American POWs were on their way home. Those who leaked that President Nixon or his advisors, in announcing that all prisoners had been released, knew that we were keeping prisoners behind disingenuously neglected to mention President Nixon's statement that, quote, "there are still some problem areas. The provision of the agreement requiring an accounting for all missing in action in Indochina has not been complied with."

That is all we knew. And nothing has been produced or can be produced to indicate the contrary. And neither Secretary Schlesinger nor Secretary Laird ever made any representation to us of what they believe now to have been the case 20 years after the event. Never once.

Every U.S. official was dissatisfied with the lack of information about our missing in action in Laos, and we said so publicly. The committee knows why we were dissatisfied. The percentage of the missing accounted for in Laos was far smaller than in Vietnam and elsewhere.

I used these figures in my preparatory talks in Hanoi, and I might point out here that all of the figures in the Eagleburger and Richardson memoranda were familiar to us and had been raised with Hanoi before we received their memoranda on my February visit in Hanoi. This does not diminish the contribution of these memoranda, but it explains that we believed we were already dealing with the problem, and indeed were.

There is, of course, the question of what more we could have done. During this period, as I have reported in detail in my memoirs and as I explained during my deposition, I favored military retaliation against Hanoi's repeated violations, and I intended to bring matters to a head after that in another negotiation with Le Duc Tho. President Nixon felt that on balance it was better to have one more negotiating round, and from the overall point of view I had no reason to disagree with his judgment, nor do I today.

Certainly, there was little support in the United States for stronger measures. Most commentators—I would say all commentators, congressional or media—opposed any effort to stand up to Hanoi, arguing that the United States had no right to retaliate at all against the North's blatant violations. I am making available a sample of prevailing opinion in appendix C. Nor did the Congress offer support needed to resist Hanoi's violation. In appendix D is a sample list of congressional resolutions debated in 1973.

By the middle of April, Hanoi's violations were overwhelming. In blatant contravention of the January agreement, they moved some 35,000 fresh troops, 400 tanks, 300 artillery pieces, 7,000 trucks, and 27,000 tons of military supplies into South Vietnam. On April 19 we suspended meetings of the Joint Economic Commission. The next day, the U.S. Government issued a detailed public statement listing all the violations, and specifically criticizing their failure to provide information on U.S. MIAs.

Before my scheduled meeting with Le Duc Tho in the middle of May 1973, President Nixon instructed me to "hit them hard on MIA accounting." Much has been made of Deputy Secretary Clements' alleged remark in April 1973 that "they're all dead." You will have to ask Secretary Clements what he actually said and meant.

I can only tell you that as far as the administration is concerned, and as the record shows, we never accepted the proposition that "they're all dead," continued to express our dissatisfaction with respect to the accounting for MIAs, and pressed as hard as we could for an execution of their commitments.

Between May and June 1973, I conducted 12 days of talks with the North Vietnamese. I reviewed in detail the North's violations, including the failure to account for all of the MIAs, but Hanoi sensed our leverage was rapidly eroding. A host of congressional resolutions made it clear that we would have no support for military action. On May 31, the Senate rejected a Republican-sponsored amendment which would have made the cutoff of American mili-

tary activity in Laos and Cambodia contingent upon the North Vietnamese making a good faith effort to account for the MIA.

In response to my presentations, Le Duc Tho disdainfully read me editorials from the American press and speeches from the Congressional Record. This attitude was vividly reflected in a briefing the Vietnamese communist leaders gave to their cadre just prior to the negotiations. That report said that President Nixon would "not dare to apply strong measures as air strikes or bombing attacks in either North or South Vietnam because the U.S. Congress and the American people will violently object."

Despite all these obstacles, strenuous negotiations resulted in a joint communique on June 13, reaffirming and strengthening all the POW provisions, including those with respect to missing in action of the original agreement. It was again violated and ignored. We made no secret of our outrage with Hanoi's violation. During 1973, we delivered at least 30 separate public statements or private messages to that effect.

In my confirmation hearings for Secretary of State in September 1973, I told the Senate we considered Hanoi had an obligation to provide an accounting for the missing throughout Indochina and that, quote, "we are extremely dissatisfied with the results of that part of the agreement."

Unfortunately, it was also no secret that these efforts to pin Hanoi down amounted to firing empty cannons. In theory we had three sources of leverage available: Bombing the North, offering economic aid to Hanoi and giving military and economic aid to Saigon to deprive Hanoi of the hope of military victory. The Congress took all three levers away, denying us both the carrot and the stick. When the Congress eliminated our leverage, we were trapped in the classic nightmare of every statesman. We had nothing to back up our tough words, but more tough words. Under such conditions we had no bargaining position left.

Mr. Chairman, the Paris accords contained clear and binding commitments that all prisoners throughout Indochina would be accounted for and returned. If the Vietnamese violated these provisions, it was not because of any omission by responsible U.S. officials, even less any cooperation with them, but because we were stripped of the weapons we might have used to enforce that commitment.

I challenge critics of the accord to say precisely how they would have achieved a better outcome under these circumstances.

Mr. Chairman, like you, I had the great honor of serving this country. As I did, I was conscious of my responsibility to:

The servicemen I visited in the infantry division on three different trips to Vietnam between 1965 and 1967.

To the wives and families of the missing in action with whom I met frequently and who, despite great pressures, never broke faith with their Government.

To those on my staff who stayed with me when so many of their friends were among the demonstrators and to whom I promised that, if they stayed, they would help end our country's division by working on an agreement in which all, demonstrators and administration, could be proud.

To this country which saved me and my family from totalitarianism.

Throughout the difficult period we are discussing I had regular meetings with the families of our POWs and missing in action. Through them I came to know the great personal anguish they faced. Over the years, no honor has meant more to me than being invited twice as guest of honor by the returned prisoners at their annual dining in at Randolph Air Force Base in San Antonio. When I received the Nobel Peace Prize for my part in ending the Vietnamese War, I donated all of the money to a scholarship fund for the education of children of servicemen killed or missing in Indochina.

I presented the agreement to the end the war to the press on January 24, 1973, with the following concluding comments.

"As for us at home, it should be clear by now that no one in this war has had a monopoly of anguish and that no one in these debates has had a monopoly of moral insight. And now that at last we have achieved an agreement in which the United States did not prescribe the political future to its allies, an agreement which would preserve the dignity and self-respect of all parties, together with healing the wounds in Indochina we can begin healing the wounds in America."

Healing those wounds preoccupied me then, it has preoccupied me since, and it is one reason I find this inquiry so painful.

Mr. Chairman, you have stated that this inquiry was designed to heal the wounds of Vietnam. I agree. But it cannot be done by blaming American officials for Vietnamese transgressions, nor by innuendos, distortions and outright falsehoods being leaked out of this inquiry.

So let us stop torturing ourselves. The United States kept faith with those who served their country. No Administration knew that there were live Americans kept in Indochina. American prisoners may have been kept in Vietnam by a treacherous enemy in violation of agreements and human decency. But no one was left there by the deliberate act or negligent omission of any American official.

The U.S. Government kept faith with those who served their country and suffered for it. If servicemen were kept by our enemies, there is one villain and one villain only, the cold-hearted rulers in Hanoi. That is the conclusion your report owes to our Nation, to the families of those who served and suffered there and to the public servants who worked their hearts out to bring an honorable peace, to return prisoners and to account for the missing. That is the one true way to put this anguish and issue behind us. Thank you very much.

[The prepared statement of Dr. Kissinger follows:]

PREPARED STATEMENT OF HENRY A. KISSINGER, NATIONAL SECURITY ADVISOR

Mr. Chairman, Members of the committee: Twenty-three years ago the President of the United States did me the great honor of asking me to be the principal negotiator for ending the war in Vietnam. When the Administration in which I served entered office it found 550,000 soldiers in Vietnam. Thirty-one thousand had already died there. We faced a ruthless enemy without any regard for human life or elementary principles of treatment of the captured.

From the day we entered office, we had no more consistent or important goal than the release of the brave Americans held prisoner throughout Indochina and a full accounting of their missing colleagues. The negotiating record makes clear that this matter was repeatedly and insistently raised with the North Vietnamese. Despite Hanoi's protestations, we demanded that Hanoi guarantee the release of American POWs in Laos and Cambodia and assist in accounting for our MIAs. There was no issue on which American officials, from the President on down, were more adamant. For us on the negotiating team it was a painful process because we all had many friends on the other side of the national debate. We went through exhausting negotiations, sustained by the hope that our effort would reconcile those who gave priority to peace with those who gave priority to their concept of honor, recognizing the anguish of both sides.

After nearly 4 years of grueling negotiations, it was my privilege on January 23, 1973, to initial the agreement to end the war that required the return of all prisoners throughout Indochina and an accounting for the missing, together with a ceasefire and other important provisions I shall describe later. I am proud of what my associates and I accomplished.

All of us remember the exaltation on October 8, 1972 after Le Duc Tho accepted President Nixon's public proposal of May 8, 1972, and we knew that the end of the war was in sight. One of our notetakers, Mary Stiffelmire, insisted on working for a 20-hour negotiating session without relief because she wanted the honor of being present when we culminated 4 years of often anguishing efforts. Yet here we are, 20 years later, being pilloried in leaks from this inquiry without a shred of evidence, with the unforgivable libel that we neglected the very group whose suffering was the biggest single incentive for our exertions.

The Paris Accords were a major diplomatic accomplishment for America. As part of the Accords, we demanded, and finally received, from Hanoi agreements which specifically made the withdrawal of American forces dependent on the release of our prisoners and assurances of Hanoi's assistance in the accounting for our missing throughout Indochina.

Monday morning quarterbacks can argue that the Paris Peace Accords were not perfect. I agree. To me, the ideal outcome would have been an American victory. But, Mr. Chairman, we had to deal with the war in the specific circumstances we faced. Even with the perspective of 20 years, I am convinced that in those circumstances no better agreement was obtainable and much worse ones were urged by our critics. For example, just as I was leaving for the final negotiations in January 1973, the House and Senate Democratic Caucuses each passed, by very large margins, resolutions calling for legislation to cut off all funds for the war.

I challenge those flaunting their 20/20 hindsight to say how they could have gotten better terms in that charged political atmosphere. What precisely would they have been willing to do to achieve which particular changes and at what cost? Moreover, since Congress removed both incentives and penalties for Hanoi's compliance, how exactly would any achievable amendments to the text of the Paris Agreement have changed Hanoi's behavior?

This is not the first time Congress has examined this issue. Sixteen years ago in 1976, the bipartisan House Select Committee on POWs and MIAs after a 15 month examination concluded that "The provisions of the Paris Peace Agreement relative to POWs and MIAs and the Protocol on Prisoners and Detainees appear, at first glance and after more thoughtful consideration, not only adequate but excellent". The Accords, they stated "constitute an achievement of which the American negotiators and the American people could be proud. Their true success, however, depended on their implementation and their implementation depended on the cooperation of all parties".

That is precisely the point: The problem with the Paris Accords was not with the words, but with their implementation by North Vietnam. From the very start, Hanoi began violating the Accords. The record shows clearly that while the executive branch tried strenuously to bring pressure on Hanoi to carry out its commitments under the Paris Accords, in particular those relating to POWs and MIAs, the U.S. Congress even more vigorously, and successfully, undercut our ability to enforce those accords. For our Administration was prepared to use force to resist Hanoi's violations of the Agreement until the Congress prohibited it. The Congress also took away other means of leverage—such as economic aid. In light of this record, it hardly becomes the present Congress to accuse the 1970s executive branch of not doing enough.

It is therefore amazing to see press stories hinting dark about prisoners "abandoned" by their own Government. There has been talk of a conspiracy extending through five Administration the leaks that could only have come from this inquiry

assert that when President Nixon announced that all prisoners were on the way home he or his aides knew that many were left behind. The allegation is a flat-out lie, as I shall show later.

What has happened to this country that a congressional committee would inquire whether American official of whatever Administration would fail to move heaven and earth to fight for the release of American POWs and for an accounting of the missing? There is no excuse, two decades after the fact, for anyone to imply that the last five Presidents from both parties, their White House staffs, Secretaries of State and Defense, and career diplomatic and military services either knowingly or negligently failed to do everything they could to recover and identify all of our prisoners and MIAs. Can anyone seriously believe that any honorable public official would neglect America's servicemen and especially those of who suffered so much for their country or, even worse, arrange conspiracy to obscure the fate of prisoners left behind?

Personally, I have no proof whether Americans were kept behind by Hanoi. The Vietnamese are certainly capable of such a cynical act and of lying about it, even though their motive would be obscure. If any prisoners were held back, there can be only one guilty party—the Vietnamese Communists who flagrantly and unforgivably would have violated solemn and clear-cut agreements. If any proof of such a betrayal is found by this committee, all Americans will unite to demand redress.

The committee owes it to the country, and above all to the families of the MIAs, to dispel the misapprehension that every unaccounted for missing person was necessarily a Vietnamese or Laotian captive. While I was in office, we did receive some reports alleging that live Americans were still in Indochina. I can assure the committee that all those reports were taken seriously. But no confirmed report of living American prisoners ever crossed my desk. At the time, returning prisoners stated that they believed all POWs had been released.

The committee also owes the American people a statement of the simple truth:

- Some prisoners may—I repeat may—have been kept behind by our adversaries in violation of solemn commitments.
- No prisoners were left behind by the deliberate act or negligent omission of American officials.

Anyone suggesting otherwise is playing a heartless game with the families of the MIAs, who are entitled to the consolation that their Government kept faith with their suffering. I recognize that Vietnam evoked deep differences about its purpose and its strategy by serious people on all sides. But to try to settle scores at this remove and to tear the scabs of the Vietnam War in such a manner would be unconscionable.

THE POLITICAL BACKGROUND OF THE PEACE NEGOTIATIONS: PRESSURES FOR UNILATERAL WITHDRAWAL

When the Administration in which I served came into office, it found half a million Americans fighting in a region far removed from the United States. The number was still increasing according to a schedule established by our predecessors. Casualties had risen and reached their highest level the year before we entered office—about 300 a week. Four years later we had withdrawn 95 percent of the troops and reduced casualties by 98 percent.

We began negotiating in 1969, continuing a process begun in the previous Administration which, however, had never gone beyond procedural discussions. One of the highest priority demands, which we consistently declared to be non-negotiable, was the release of all prisoners throughout Indochina, and a full accounting for the missing. During four anguishing years we negotiated to find honorable terms for ending the war, first sporadically on weekends, later in week-long day-and-night sessions. For not withdrawing more unconditionally, we were harassed by protesters, attacked in the media, criticized in countless congressional resolutions and ridiculed for our concept of national honor. Never once did we receive any criticism from any source of the kind now emerging from this inquiry. The pressures we experienced were in the other direction—that we were not making enough concessions, that we should withdraw unilaterally in the expectation that then prisoners would be released by an act of grace of their captors.

By 1972, there was a steady drumfire of public statements and editorials urging the immediate withdrawal of our forces. I am making available separately a sample of these (Appendix A). For example, the Washington Post editorialized April 17, 1972 that "we ought to fix a date for our total military disengagement, negotiate as best we can for the return of our prisoners, and get out".

There were also numerous congressional resolutions. Most were "sense of the Congress" resolutions which meant they were not binding. Some resolutions passed; others did not. Whether they passed or not, they were all known to the Vietnamese and necessarily weakened our negotiating position. The number of formal anti-war votes in Congress swelled from 5 in 1969 to 35 in 1972. I am also providing the committee an illustrative list of some of the many resolutions or votes in 1972 (Appendix 8). For example, on July 24, 1972 the Senate passed an amendment asking for the withdrawal of U.S. forces in return for the release of U.S. prisoners. Yet it rejected an amendment requiring a cease-fire during the withdrawal. Without a cease-fire withdrawals would have taken place under military attack; our remaining forces would have been overwhelmed; more Americans would have become prisoners.

During this period, many political leaders, including Senator George McGovern, the Democratic presidential candidate, and 30 U.S. Senators were calling for the unconditional unilateral withdrawal of American forces from Vietnam, without any formal North Vietnamese commitment for the concurrent or even subsequent return of our MIAs and POWs or accounting for the missing in action.

At the same time, members of the American peace movement were spreading the word that they had been told by the North Vietnamese that setting a deadline for our withdrawal would create "favorable conditions" for the subsequent release of American prisoners of war. America had been down this road before. Our predecessors had agreed to a bombing halt on the "understanding" that Hanoi would not take advantage of it; within weeks Hanoi started an offensive that killed over 1,000 Americans a month.

Our Administration knew from its secret talks what Hanoi's real position was: America should set a deadline for withdrawal—unilaterally and independent of all other conditions. Then while American troops were being withdrawn there could be negotiations about a cease-fire, the replacement of the Saigon Government and the release of our prisoners. In other words, only when our leverage was in the process of being dismantled, while the Saigon Government was disintegrating in the absence of a cease-fire, would we be permitted to talk about our prisoners under conditions of unspeakable chaos.

We rejected these proposals because we were unwilling to subject either our prisoners or those serving in Vietnam to such risks. Key Senators, Congressmen and much of the media loudly objected to our position.

We rejected as well the consistent North Vietnamese demand to overthrow the Saigon Government, both for reasons of honor and on practical grounds. There were 700,000 Saigon troops, close to 500,000 Communist troops (including guerrillas). If Saigon collapsed, the residual American force would become hostage; the number of our prisoners would increase exponentially.

We made very clear to Hanoi that we were prepared to set a deadline for withdrawal provided there was a cease-fire and a simultaneous release of prisoners and full accounting for our MIAs. Until late in 1972 North Vietnam consistently rejected this position.

In the end, we achieved the terms which we set out to obtain, and which our critics had repeatedly told us were unattainable and provocative. In the process, we dramatically improved the conditions for the return of American forces:

- We demanded and obtained North Vietnamese promises to release all American prisoners and to assist in an accounting of our MIAs throughout Indochina despite initial insistence by Hanoi that it would negotiate only about prisoners in Vietnam.
- We obtained a commitment to return the prisoners in phased installments coordinated with simultaneous withdrawals of our forces from South Vietnam.
- We demanded and obtained important commitments designed to prevent the reinforcement and supply of North Vietnamese forces in South Vietnam, so that the South Vietnamese would be able to defend themselves after the American forces were withdrawn.
- We separated the release of our prisoners from being contingent on the release of what the North Vietnamese called "political prisoners" in the South because we thought this would provide endless pretexts for procrastination.
- To encourage compliance with these commitments, we held out the inducement, first offered by President Johnson in 1965 and frequently reiterated since, of asking Congress to authorize economic aid to the region after peace had been established.

We achieved all this while refusing, as we were being urged, to overthrow the government of an allied country and to turn over to the Communists tens of millions

who, in reliance on America's word—given by a previous Administration—had cast their lot with America.

Mr. Chairman, this is the record. Yet leaks from this inquiry have been suggesting:

- That those who had refused to abandon America's Vietnamese allies, supposedly abandoned American prisoners;
- That those who struggled to husband the leverage necessary to bring about the release of American prisoners were insufficiently attentive to the fates of remaining MIAs; and
- That those who were prepared to use force to compel Hanoi's compliance were guilty of not doing enough to enforce the agreements.

One day an author will write a play about this bizarre reversal of roles drawn straight from Kafka. Mr. Chairman, while it may make good theater, it is bad and cynical history.

PARIS PEACE AGREEMENTS

Let me now turn to the implementation of the peace agreements.¹

The Paris Agreements were signed on January 27. Under Article 8, the parties were committed to exchanging complete POW lists on January 27 and to giving a full accounting of MIAs. All POWs were to be released within 60 days. As I told a press conference on January 24, we had been assured that there were no American POWs held in Cambodia and that those held in Laos would be returned to us in Hanoi.

The North Vietnamese, in what would turn into a constant pattern, immediately began to violate the agreement. For example, they did not hand over the POW list for Laos as required on January 27. In response we delayed delivery to them of a confidential Presidential letter on recommending to Congress reconstruction assistance after peace had been established. This letter implemented a proposal first made by President Johnson in 1965. It was repeated in a Presidential report to the Congress in February 1972, which gave a figure of \$2.5 billion dollars and repeated yet again in a Presidential television address on May 8, 1972. The Nixon letter of February 1973 noted the Administration's intention to ask Congress for some \$3.25 billion for reconstruction in Vietnam, provided the other provisions of the Agreements were implemented and were in conformity with American constitutional procedures. We delayed the delivery of the letter several days in a successful effort to force Hanoi to hand over the list of our POWs in Laos. This they did on February 1, though their list contained the names of only 10 Americans held as prisoners, whereas our intelligence agencies believed a greater number to be missing.

Mr. Chairman, some suggestions have been made that the North Vietnamese may have withheld some American POWs in an effort to get this economic aid. I find this reasoning difficult to understand. First of all, it had been our constant position that we would never give aid as a form of "ransom" for our prisoners. Nor did we want the North to be able to portray any such aid as "reparations", as we repeatedly told them. That is why the question of reconstruction aid was handled separately from the formal Paris Agreements via a private Presidential message.

Moreover, we had so structured the implementation of the Paris Accords that we would not even begin to discuss aid until almost all the POWs had already returned

¹ Before turning to implementation of the agreement, let me explain the way we went about the negotiations. Until 1972, I conducted private talks, together with a small team from the NSC, all whom have been deposed by the committee staff. The typical procedure was to leave on a Saturday morning for a French military base from which a French military plane took us to a private airfield near Paris, where we would arrive around midnight. After spending the night in the apartment of our then military attache, General Walters, who acted as interpreter and advisor, we met the North Vietnamese negotiators, usually Hanoi Politburo member Le Duc Tho. After negotiating all day—and sometimes briefing the French President Pompidou—we returned to Washington by the reverse procedure of the day before.

At this stage we discussed only basic principles—usually no more than two pages. The return of POWs and accounting of the MIAs was an integral part of every American proposal and was always declared as non-negotiable by us.

After the breakthrough of October 8, 1972 I asked Ambassador Bill Sullivan and George Aldrich, the State Department's Deputy Legal Advisor, to join the team. They, together with other experts and members of my staff, negotiated the protocols of implementation with Vietnamese technical teams.

After the agreement went into effect, the POW/MIA issue was handled by the NSC process with the Defense Department as the lead agency. As a general procedure, the Defense Department dealt with the Four Party Military Commission, the State Department with embassies abroad, the White House with heads of government.

to the United States. The Joint Economic Commission did not hold its first meeting on the matter until March 15. The Vietnamese were required to return all the POWs by March 28.

Finally, it is curious that Americans would make such an argument when the North Vietnamese did not. As the bipartisan House Select Committee reported in 1976, during all the discussions with the North Vietnamese in 1973, 1974 and 1975, not once did they cite the American failure to provide economic aid as an excuse for their failure to provide a complete accounting for our MIAs. Why should Americans now put forward an alibi for Hanoi which even they did not assert?

We immediately made clear our dissatisfaction with the Laos list. Secretary of State Rogers testified before the Senate Foreign Relations Committee on February 8, 1973 (and again on February 21) that we did not regard the Laos list as complete and noted that we would continue to press for the fullest information on all American MIAs throughout Indochina. When I visited Hanoi for negotiations in mid-February, I raised the POW and MIA issues, presenting the evidence we had with respect to specific discrepancies including Laos and asking the Vietnamese to follow up. In particular there were about 80 names of our men who we had reason to believe were alive when they reached the ground that did not appear on Hanoi's lists. The Vietnamese insisted that there were no additional prisoners beyond those on the lists and in the process of being released over the 60-day period. I covered this issue in my memoirs over 10 years ago, so that I am surprised that these discrepancies are now being presented as great discoveries.

By the last week of February 1973, the North Vietnamese had not yet carried out their obligation to hand over the list of men to be freed on February 27. In violation of the Peace Agreement, they were hinting at tying their release to the freeing of what they called "political prisoners" in South Vietnam. This was a linkage we had explicitly rejected in the negotiations leading up to the Peace Agreement—a concession for which we had struggled through many night sessions. We reacted to the North's stalling by suspending troop withdrawals and mine-clearing operations. The POWs were thereupon released as scheduled.

In the following weeks we kept up the pressure at the Vietnam Peace Conference in Paris. Representing the United States there, Secretary Rogers told the press that President Nixon would take "appropriate action" if there were any delays in POW releases. In a March 2nd press conference, the President repeated publicly that POW releases could not be linked to anything other than the rate of U.S. withdrawal.

Meanwhile, the North Vietnamese were violating other provisions of the Agreement, through massive illegal movement of troops and materiel across the DMZ and down the Ho Chi Minh trail. During March, we registered a number of protests to the North about these violations and about our growing concern on the accounting for MIAs. They regularly, and disingenuously, responded that they were innocent of all charges. We rejected their replies, as we said in a message, as "an insult to our intelligence".

As the March 28 deadline for the last POW release approached, the White House issued a threat on March 25 that U.S. troops would remain in Vietnam until all POWs in Indochina were released. All remaining prisoners on the lists were thereupon released as scheduled.

UNCERTAINTY REMAINS AFTER MARCH POW RELEASES; US LEVERAGE ERODES

On March 29, President Nixon announced that "all of our American POWs are on their way home." Those who leaked that President Nixon or his advisers, in announcing that all prisoners had been released knew that we were keeping prisoners behind, disingenuously neglected to mention President Nixon's statement that "there are still some problem areas. The provision of the agreement requiring an accounting for all missing in action in Indochina . . . [has] not been complied with . . ." That is all we knew and nothing has been produced or can be produced to indicate the contrary.

Every U.S. official was dissatisfied with the lack of information about our MIAs in Laos, and we said so publicly. Our dissatisfaction was based on evidence that many of these men, mostly pilots who had been shot down, had reached the ground alive but they were never returned to us alive or declared to have died. We also noted that, statistically, the percentage of the missing accounted for in Laos was far smaller than in Vietnam. I used these figures in my February talks in Hanoi. But we did not have evidence that any of the missing were actually still alive and being held prisoner. We repeatedly and insistently demanded that North Vietnam provide a better accounting for the missing. We did so both before and after Secretary Richardson's March 26th memorandum to me which has been featured in these hear-

ings. Hanoi ignored our demands. Between February 1973 and June 1975, we raised our dissatisfaction with accounting for MIAs in Laos more than 60 times with officials of the Laotian Government. It is the ultimate irony that our Herculean efforts to get an accounting in 1973 should be twisted 20 years later into "evidence" that we knew POWs had been left behind.

There is, as well, the question of what more we could have done. During this period, as I have reported in detail in my memoirs, I favored military retaliation against Hanoi's repeated violations. The President felt that on balance it was better to have one more negotiating round. Certainly there was little political support in the United States for stronger measures. Most commentators, congressional and media, opposed any effort to stand up to Hanoi, arguing that the United States had no right to retaliate at all against the North's blatant violations. Again, I am making available a sample of prevailing opinion (Appendix C). Let me read just two here:

- A New York Times editorial of April 1, 1973 stated that "The President continues to imply in dark and guarded language that he is ready to use the power of the United States to force adherence to the cease-fire terms. Nowhere in the official records of the truce is there provision for any one nation to deal with violations by its own bilateral actions."
- The Des Moines Register said on April 4, that "it would be a grave mistake for the United States to decide the peace violations by the other side were intolerable and jump back into combat again . . . The agreement calls for the United States to get out and stay out and leave the Vietnamese to settle the future of Vietnam."

Nor did Congress offer support needed to resist Hanoi's violations. At Appendix D is a sample list of congressional resolution debated in 1973.

By the middle of April, Hanoi's violations of the Paris Accords were overwhelming. In blatant contravention of the January agreement, they had moved an entire army, some 35,000 fresh troops, 400 tanks, 300 artillery pieces, 7,000 trucks and 27,000 tons of military supplies into South Vietnam. On April 19, we suspended meetings of the Joint Economic Commission. The next day, the U.S. Government issued a detailed public statement listing all the North's violations and specifically criticizing their failure to provide information on U.S. MIAs. The same day, technical teams began meeting to review compliance with the Agreement, especially the fate of our prisoners and missing. Before my scheduled meeting with Le Duc Tho in the middle of May 1973, President Nixon instructed me to "hit them hard on MIA accounting."

Much has been made of Deputy Secretary Clements' alleged remark in April 1973 that "They're all dead". You will be able to ask Secretary Clements what he actually said and meant. But the fact is that in our subsequent negotiations with the North Vietnamese, we never accepted that "They're all dead", and continued to express our dissatisfaction with Hanoi's failure to account for the MIAs. The negotiating record and public statements by our Government make this very plain.

Between mid-May and June 1973, I conducted 12 days of talks with the North Vietnamese. I reviewed in detail the North's violations including the failure to account for all the MIAs and pressed the North Vietnamese repeatedly for a better accounting of U.S. personnel missing in Laos. But Hanoi sensed our leverage was rapidly eroding partly as a result of actions taken by the Congress. For example:

- On May 10, the House adopted an amendment which prohibited the use of funds for military activity in Southeast Asia.
- Two weeks later, the Senate Foreign Relations Committee approved a similar proposal.
- On May 31, the full Senate rejected a Republican-sponsored amendment which would have made the cut-off of American military activity in Laos and Cambodia contingent upon the North Vietnamese making a good faith effort to account for MIAs.

U.S. CONTINUES TO PRESS HANOI IN LATE 1973

Despite all these obstacles, strenuous negotiations resulted in a joint U.S.-North Vietnamese communique on June 13 which reiterated the existing Vietnamese obligations to release remaining POWs, if any "without delay", to make a full accounting for MIAs throughout Indochina and to facilitate knowledge about the dead. When Hanoi still did not give us such an accounting, the American Government issued a lengthy protest statement on MIAs on July 29, noting that after 6 months, North Vietnam had failed to comply with the agreement and that we still had some

1300 listed as missing. We again called upon the North to provide information on the names we had provided.

While we had no hard evidence that any of the missing were still alive we emphatically wanted to determine their fate. In the following months we continued to raise with the North their violations of the agreement. We made no secret of our outrage with Hanoi's violations. During 1973, we delivered at least 80 separate public statements or private messages protesting Hanoi's violations. In my confirmation hearings for Secretary of State in September 1973, I told the Senate we considered Hanoi had an obligation to provide an accounting for the missing throughout Indochina and that "we are extremely dissatisfied with the results of that part of the agreement."

Unfortunately, it was also no secret that these efforts to pin Hanoi down amounted to firing empty cannons. In theory, we had three sources of leverage available: bombing the North, offering economic aid to Hanoi, and giving military and economic aid to Saigon to deprive Hanoi of the hope for military victory. The Congress took all three levers away, denying us both the carrot and the stick.

- On June 29, 1973, a little more than 2 weeks after the restatement of the Vietnamese obligation regarding prisoners and the missing, the Congress prohibited all military action in, over, and near Indochina, including reconnaissance flights after August 15.
- In July 1973 it became clear that Congress would not approve economic aid to North Vietnam.
- In each of the remaining years that Saigon was independent, Congress cut aid to it by 50 percent.
- The Congress cut off aid to Cambodia altogether in 1975 and was in the process of debating a "terminal grant", at best 75 percent of its last inadequate annual grant, when South Vietnam collapsed in 1975.

Unfortunately, when the Congress eliminated our leverage we were trapped in the classic nightmare of every statesman—we had nothing to back up our tough words but more tough words.

Under such conditions, we had no bargaining position left. I had one final meeting with the North Vietnamese in December 1973. I remember being armed with a long list of violations to raise with them, including the fact that Hanoi had failed utterly to comply with the agreements on MIAs. As I recall the meeting, Le Duc Tho's response was even more contemptuous than 6 months earlier. He was after all a professional; he would not waste his time on adversaries incapable of either rewarding or punishing.

During 1974 and 1975, our Administration continued to press Hanoi publicly, in private messages and in meeting of the Four-Party Joint Military Team, to perform their treaty commitment to account for our MIAs. I personally asked the Laotian Government to help. Vietnam ignored us and even suspended meetings of the Four-Party team in mid-1974 as Watergate finally sapped the Presidency.

The Paris accords contained clear and binding commitments that all prisoners throughout Indochina would be accounted for and returned. If the Vietnamese violated these provisions it was not because of any omission by the responsible U.S. officials but because we had been stripped of the weapons we might have used to enforce that commitment. I am proud of what my colleagues and I accomplished under heartbreakingly difficult circumstances. I challenge critics of the Accords to say precisely how they would have achieved a better outcome under those circumstances.

CONCLUSION

Mr. Chairman, like you, I had the great honor of serving this country. As I did, I was conscious of my responsibility

- to the servicemen I visited in the infantry divisions on three different trips to Vietnam in 1965-1967;
- to the wives and families of the MIAs, with whom I met frequently and who, despite great pressures, never broke faith with their Government;
- to those on my staff who stayed with me when so many of their friends were among the demonstrators and to whom I promised that, if they stayed, they would help end our country's divisions by working on an agreement of which they could be proud;
- to this country which saved me and my family from totalitarianism.

Throughout the difficult period we are discussing, I had regular meetings with the families of our POWs and MIAs. Through them, I came to know the great personal anguish they faced. Over the years, no honor has meant more to me than being in-

vited twice as guest of honor by the returned prisoners at their annual "dining-in" at Randolph Air Force Base in San Antonio. When I received the Nobel Peace Prize for my part in ending the Vietnamese war, I donated all of the money to a scholarship fund for the education of children of servicemen killed or missing in Indochina.

I presented the agreement to end the war to the press on January 24, 1973 with the following concluding comments: "... as for us at home it should be clear by now that no one in this war has had a monopoly of anguish and that no one in these debates has had a monopoly of moral insight. And now that at last we have achieved an agreement in which the United States did not prescribe the political future to its allies, an agreement which would preserve the dignity and self-respect of all the parties, together with healing the in Indochina we can begin to heal the wounds in America."

Healing those wounds preoccupied me then; it has preoccupied me since. It is still a noble objective.

Mr. Chairman, you have stated that this inquiry was designed to heal the wounds of Vietnam. This cannot be done by blaming American officials for Vietnamese transgressions, nor by innuendos, distortions and outright falsehoods being leaked out of this inquiry.

Nor did any Administration know that there were live Americans kept in Indochina. American prisoners may have been kept in Vietnam by a treacherous enemy in violation of agreements and human decency. But no one was left there by the deliberate act or negligent omission of any American official.

Let us stop torturing ourselves. The U.S. Government kept faith with those who served their country. If servicemen were kept by our enemies, there is one villain and one villain only: the cold-hearted rulers in Hanoi. That is the conclusion your report owes to our Nation, to the families of those who served and suffered there and to the public servants who worked their hearts out to bring an honorable peace, to return prisoners and to account for the missing. That is the one true way to put this anguishing issue behind us.

- [Additional information submitted follows:]

APPENDICES:

T4
Leg #1
(to Kissinger Statement)

To Statement by Dr. Henry A. Kissinger
before Senate Select Committee on POW/
MIA Affairs, September 22, 1992
Washington, D.C.

Appendix A - Vietnam 1972: Illustrative
Press Coverage

Appendix B - Vietnam 1972: Sampling of
Congressional Actions

Appendix C - Vietnam 1973: Illustrative
Press Coverage (March-April)

Appendix D - Vietnam 1973: Sampling of
Congressional Actions

APPENDIX A

REPUBLIC
15 JAN 72 (13)
Let's Find Out

As in this has been a clarification of today on Vietnam which does not clarify. The confusion arises out of a dispute between the President and Senator McGovern (among others) over what Hanoi demands in return for the release of American POWs. The President triggered the debate by telling a CBS interviewer that these "international outlaws" in North Vietnam had said "no deal" on freeing the prisoners in exchange for an announced date for US military withdrawal. McGovern then accused the President of deception, and said that the offer had never been made by the administration. Within 24 hours, another background briefing by a White House spokesman conceded that Mr. Nixon hadn't exactly made that offer but that he had concluded from what has been said in Paris, that no deal could be arranged because "the North-Vietnamese are still demanding what they have always demanded; that we pull the rug out from beneath the South Vietnamese government." This is how the administration interprets Hanoi's statement last July, that the US must "respect the South Vietnamese peoples' right to self-determination, put an end to its interference in the internal affairs of South Vietnam," and specifically, cease its efforts to maintain the present Saigon government in power.

Two questions arise. The first is whether this demand of Hanoi is inseparable, as the White House insists, from an offer to let the prisoners go if a deadline for withdrawal is fixed and met. Senator McGovern believes the two are separable; the President doesn't. We are inclined to think the senator is right, but we are not sure. And we would note in passing that by prisoners, Hanoi means all prisoners, not just Americans, which complicates the problem further.

The second related question is whether Hanoi has in mind to hold prisoners unless and until the President, formally and explicitly, announces his non-support of the present Saigon regime. We are not mind readers, but that is not our understanding of the situation. We read Hanoi as saying that the war will go on so long as the US government acts on the belief that the survival of Thieu is vital to its national interest. But if that belief were discarded if Mr. Nixon were to decide, as he ought, that Thieu is not worth the price we pay for him, it would not follow that the President would have to collaborate in Thieu's overthrow. All Washington need do is allow Vietnamization full play, leaving the political and economic future of Vietnam for the Vietnamese to decide.

These opinions of ours are speculative, but they could be put to the test. One way of testing them was suggested by Max Frankel in The New York Times of January 4. American negotiators have wondered why the North Vietnamese have not played an American feelings but offering to exchange the exchange of prisoners for ground and air withdrawal. We have wondered something else. Why doesn't the North offer an unambiguous cessation of all US military action in Vietnam and a lifting of all US foreign aid to the South Vietnamese government in return for the release of all US prisoners by that date and assurance of safe return for our troops? That proposal might produce a clarification that clarifies.

JAN 21 1972
Symington Comments On VN

BILL MONROE: Senator SYMINGTON, you indicated yesterday that you felt some of the policies we are pursuing in Indo-China don't seem to you to be consistent with our plans for withdrawal.

Why not?

SENATOR STUART SYMINGTON: It's difficult to understand why we bomb heavily up in NVN, increase our military operations in Cambodia, our support, maintain the military operations in Laos; at the same time say that we are moving out of that war as quickly as we can.

If we continue this operation, there's a chance that our troops that are left could be in very serious trouble.

It's been my position for many months that if we agree to a date and provided a withdrawal, provided they released our prisoners of war, that we could get out of Indo-China, which I now believe is important for the future of this country.

MONROE: You believe we could get out if we simply said we will pull out by a certain date in exchange for release of prisoners?

SYMINGTON: I think that would end this Indo-China war.

And I believe that would be to the advantage of the US for many reasons.

MONROE: Now, Senator, you're talking in exactly an opposite direction than from the Administration.

The Administration says that these activities in Cambodia and Laos and the bombings are actually done to protect our remaining troops and to speed withdrawal.

SYMINGTON: Well, I may be talking against the Administration, but I'm talking about something that the Senate three times has passed and been in favor of.

The House has not approved it, nor does the Administration approve it.

And I think what we're doing today is dangerous from the standpoint of our future.

And it's going to kill a lot more people on the ground - civil-

It's going to kill more of our own flyers and soldiers. We lost five planes in the week that I was out there.

And I would like to see us either pursue it, which is now obviously wrong, or get out of it.

And I think we could get out of it if we were to agree to a date on the withdrawal of the prisoners.

Provided that the prisoners were withdrawn at the same time. (?)

WASHINGTON POST
23 JAN 72 (24)

New Hints on Ending the War

In his CBS interview on January 2, President Nixon hinted for the first time that he would later propose to Hanoi a total American withdrawal in exchange for release of the POWs. This is, of course, the crux of the matter. The administration has talked a good deal about it but it has not made a proposal embodying a withdrawal-prisoner deal to North Vietnam. Thus North Vietnam has never been forced to go through what surely would be the terribly difficult political exercise of deciding how to respond.

Rather, Hanoi has been free to make propaganda on the issue and to float differing and confusing versions of its bargaining position—one should say its "propaganda position" because the United States has yet to force it to define a "bargaining position." For it is of the essence to distinguish what North Vietnam may say to inquiring politicians and journalists—or to American diplomats who are under instructions in effect only to buy time for President Thieu—from what its actual response on a withdrawal-prisoner proposal might be.

Now, however, the administration seems to have moved a step closer toward making such a proposal, though Mr. Nixon's State of the Union message contained no suggestion of it. Diplomatic correspondent Murrey Marder wrote on Friday that "administration strategists are reported to be increasingly tempted to put the question directly to counter critics of administration policy." One hopes the temptation is not based on private assurances that Hanoi will reject the offer. But the critics, assuredly, are gaining force. Last year they were led by Senator Mansfield, whose leverage was limited to legislative politics. This year they are led by Senators Muskie, Humphrey and McGovern,

whose leverage is applied in the much more critical arena of presidential politics.

This newspaper has previously stated its conviction that Mr. Nixon has full and fair reason to declare the United States has achieved its appropriate mission in Vietnam, and that a withdrawal-POW deal should now be offered. To many, it will be deeply disturbing that Mr. Nixon should not start issuing hints of interest in that course until now. But if Mr. Nixon is seeing matters more clearly in 1972's early light, then we urge him to move on.

Senator McGovern, among others, claims that Hanoi would surely accept a withdrawal-POW offer. We are not so sure. It is not inconceivable that some in Hanoi, perhaps those who might win the internal debate such an offer would provoke, might insist that the United States must withdraw not only its own forces but all forms of support for President Thieu. It would involve a risk. There is, however, only one way to find out whether Hanoi will bargain and that is to put the question: to put it, furthermore, in a way and in a form designed to enhance prospects of its acceptance.

The administration is currently advertising its alarm about a forthcoming military "spectacular" the Communists are said to be planning and about the unravelling effect it may have on domestic support for administration war policy. If the White House is in fact as alarmed as it professes, then why should there be any further delay in submitting a serious proposal in Paris? Such an offer could well deter the "spectacular" they believe is being planned. Surely Mr. Nixon would not want to delay the offer, if he is actually contemplating one, because he does not think this is the proper moment for it in his re-election campaign. We repeat our comment on his CBS interview: why not now?

24 January 1972 P1 REACTION IS MIXED

Backers of President Praise His Offer— Critics Skeptical

By JOHN W. FINNEY
Special to The New York Times

WASHINGTON, Jan. 23—President Nixon's eight-point peace proposal was applauded tonight by Congressional supporters of the Administration, but was greeted with a mixture of skepticism and surprise by critics of the Vietnam War.

To the Administration's supporters, the President's disclosure of the secret negotiations and the American offer was taken as evidence that Mr. Nixon had done everything possible to achieve a negotiated settlement of the war.

Among the critics there was doubt that the President had gone far enough or that his proposal would be acceptable to North Vietnam.

Senator John Sherman Cooper, Republican of Kentucky, who in the past has teamed with Senator Church in offering Vietnam withdrawal amendments, described the President's offer as "fair and just."

"It ought to be accepted but I doubt that it will be," he said. "If not accepted, I still think we should move out."

Senator J. W. Fulbright, the Chairman of the Senate Foreign Relations Committee and one of the harshest critics of the Administration's Vietnam policies, said that the President had offered what would be considered in western eyes a "fair and generous" proposal.

Sen. J. William Fulbright

"But what looks generous to us may not look generous to North Vietnam," Senator Fulbright said. "We may have to do more" to get a favorable response from North Vietnam.

The "sticking point," he said, remains the question of whether the United States is "willing to get out and leave the Third Country to its own devices."

From the initial Congressional reaction, it did not appear that the President, in disclosing his peace initiatives, would achieve one of his stated goals of ending the American people

in the Congressional mind his position.

There were expressions of support, such as from Senator John Stennis, Chairman of the Senate Armed Services Committee, and Representative F. Edward Hebert, chairman of the House Armed Services Committee.

Senator Stennis said, "This shows that the President has repeatedly done all that he could reasonably and honorably do as the chief executive of our nation."

Mr. Hebert said that "in light of the cause of peace the President had his finest hour."

"He demonstrated beyond any doubt his sincerity of purpose and his continuing effort in spite of the efforts to challenge the fact that he has been fighting the cause of peace to bring about the end of the useless and tragic slaughter in Vietnam," Mr. Hebert said.

Senator Mark S. Long, the Republican leader, said the President's detailed accounting of the secret negotiations "supports the wisdom of the President's push for peace" and Representative Gerald R. Ford, the House Republican leader, said, "the President has set the record straight by revealing his efforts to end the war through broad and comprehensive negotiations."

Mr. Nixon's critics admitted they had been caught off balance by the disclosure of the secret peace negotiations—a fact that contributed to their generally cautious reaction. Mingled among some words of praise for the President by the Vietnam doves was uncertainty as to exactly what the President had and was proposing and skepticism that his peace proposals were sufficient to end the war.

Expressing disappointment, Senator Frank Church of Idaho, a Democratic dove on the Foreign Relations Committee, said that "had President Nixon confined his offer to a withdrawal of the remaining forces in exchange for our prisoners of war, I would have applauded him without reservation."

"However," Mr. Church went on, "the added another condition which would require the north to stop fighting and settle instead for elections in the South under a caretaker Government. This has been suggested before and rejected. Nevertheless, I hope Hanoi will not turn down the President's offer out of hand but will regard it as a starting point for serious negotiations."

Senator John J. Chafee, a Republican of New York, said that while the Nixon offer was "fair, obviously its being made public increases the odds that it will be rejected by the North Vietnamese."

The question remains, he said, of "How long do we want to stay in Vietnam and fight and die there until Vietnam is able to defend itself?"

Senator Jacob K. Javits, Republican of New York, said that while the Nixon offer was "fair, obviously its being made public increases the odds that it will be rejected by the North Vietnamese."

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in six months, contingent only upon release of American prisoners of war. "It's not the Mansfield Amendment, but it does have the underlying elements of it," he said.

Senator Mansfield, who earlier in the day had persuaded the Caucus of Democratic Senators to embrace once again his amendment, was not immediately available for comment.

Senator Alan Cranston, Democrat of California, suggested the President had still not met the terms of the Mansfield Amendment. The issue remains, he said, of "How long do we want to stay in Vietnam and fight and die there until Vietnam is able to defend itself?"

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caused the President of contributing to a "credibility gap" with his secret negotiations.

"At the same time Mr. Nixon was bitterly opposed to the McGovern-Hartley proposal to end the war, he was at the very same time offering it to the other side," the Senator said. "This leads to a credibility gap, both with the United States Senate and the other side."

Senator Henry M. Jackson of Washington, another contender for the Democratic Presidential nomination, said Mr. Nixon "revealed a course of negotiation and action close to what I have been emphasizing—the release of our prisoners based on an agreement for withdrawal of all our forces and a standstill cease-fire."

Gov. George Wallace of Alabama said the President had made a "generous offer" but "since the North Vietnamese did not respond in private talks, I doubt if they will make any positive reaction to an offer made publicly to the American people."

Representative John M. Ashbrook of Ohio, a conservative Republican, said that while the President "for refusing to bow to pressures from the left to pressure Communist North Vietnam" he expressed concern that the peace proposals were being made at the "last minute" by the "last administration" and that the "last administration" was "not simply on the basis of a single word promise."

WASHINGTON STAR
JANUARY 1972

PG-4

Senators Rap Nixon Peace Bid

By CARL P. LEUBSDORF
Associated Press

Senate war critics say they will continue to push for a fixed date for total U.S. withdrawal from Indochina despite President Nixon's effort to defuse the war as a political issue.

Taken somewhat by surprise by Nixon's disclosure Tuesday night of secret U.S.-North Vietnamese peace efforts, many senators predicted the President's speech will have a favorable political impact, at least over the short run.

But, in a series of statements and interviews some stressed that Nixon's plan does not set a specific date for U.S. withdrawal and risks North Vietnamese rejection by linking the U.S. pullout to a cease-fire throughout Indochina and to other conditions.

"North Vietnam is not likely to accept his proposals, and I do not recommend our people place too much hope in this," said Sen. Allen Ellender, D-La.

Ellender, who has opposed congressional efforts to set a fixed withdrawal date, thus agreed with Chairman J. W. Fulbright, D-Ark., of the Foreign Relations Committee, a supporter of a fixed date.

Fulbright's comment: "I don't think we're going to get anywhere under this formula."

Sen. Harold E. Hughes, D-Iowa, said in an interview that "when I first heard it on the news, it sounded pretty good. On close inspection, it didn't turn out that way."

Sen. Edward W. Brooke, R-Mass., who had predicted a major administration move some 24 hours before Nixon spoke, said yesterday he foresees "a growing movement here in Congress to get a date certain" unless the President takes further peace steps, possibly after his later-February visit to Mainland China.

Sen. Clifford P. Case, R-N.J., said establishment of a fixed U.S. withdrawal date is "the only way in which there might be a chance that South Vietnam would shape up for its own defense."

Cranston Criticized

Senate Democratic Leader Mike Mansfield, while praising Nixon's initiative as "a long step forward," emphasized he still plans to offer at the proper time his amendment calling for total U.S. withdrawal in six months if American prisoners are freed.

Sen. Alan Cranston, D-Calif., drew sharp Republican criticism when he told a virtually deserted Senate chamber late

yesterday that the Nixon proposal is "totally unrealistic" and could be designed to make a possible U.S. escalation in future weeks "more acceptable if and when it comes."

Sen. Robert P. Griffin, R-Mich., assistant GOP leader, called Cranston's statements "disappointing and shocking" and said it would be better for critics to stay silent if they couldn't back the President.

On both sides of the aisle, indications were that senators who have backed the previous Mansfield amendments, which passed the Senate but were blocked by the House, will support future moves.

Sen. Hubert H. Humphrey, D-Minn., said in a statement that Nixon's plan lacks a precise date, which Humphrey said "has been the basis of the Mansfield amendment which I have consistently supported and which the majority of the Senate and the American public has accepted."

Sen. Edward M. Kennedy, D-Mass., said that, instead of President Nixon's eight-point plan, "all we need is a one-point plan — complete withdrawal of American ground, sea and air forces by a date certain in exchange for a return for our prisoners."

"So long as we try to condition our withdrawal on things like free elections, a cease-fire or any of the other trappings disclosed last night, reasonable as that may seem, we shall be pursuing the same blind alley in public negotiations that we have followed with such futility in private," Kennedy said.

CHANCELLOR: There was considerable political reaction today to the President's speech.

Republican Senator Hugh Scott said the speech was an answer to reasonable people who had reasonable doubts about the negotiations.

Senator Mike Mansfield, the Democratic leader, said the President's speech was a long step forward in laying the cards on the table.

Senator Edward Kennedy said of the President's eight-point plan, that there should be a one-point plan, to withdraw all American troops contingent only on the release of the prisoners.

And some of the candidates for President had their comments.

SENATOR MCGOVERN: What the President is proposing is a complicated eight-point proposition, much of which represents warmed over details from previous offers that have been rejected by the other side. I'm not very hopeful that the Nixon formula will move us any closer to a negotiated settlement.

REPORTER: Senator, what would you do if you were president?

SEN. MCGOVERN: I would accept the offer that the other side has made, in which they said if we would announce now a definite timetable for the withdrawal of all American military operations, in the air and on the ground, no preconditions, just announce a deadline, that that would then open the way for negotiations on the release of prisoners and a cease fire.

I would announce that deadline without further delay.

SEN. HUMPHREY: It seems to me that the better way, and I'm not trying to be a carping critic, because I'm very pleased that the President has taken the steps that he has outlined to the public, it seems to me that the better way would be to set the time for withdrawal, to take the initiative on our part, and of course at the same time, tie the subject of the release of the prisoners and the MIA's, the missing in action, and set up the machinery to identify the remains or to supervise it. It seems to me that's the way to end the war.

SEN. MUSKIE: To propose political initiative aimed at new presidential elections in SVN under international

supervision, coupled with President Thieu's offer to resign and that of his Vice President to resign a month before the elections is a new element.

On the military side, the one speaking point in the proposal is that it would call for a cease fire throughout IC, not simply in VN, that is it would call for a cease fire in Cambodia and Laos as well as VN. This could well lead, I think, to stalemate in Paris, and to a prolongation of the war.

CHANCELLOR: Clark Clifford, who used to be Secretary of Defense, and who was one of Muskie's advisors, today reinforced this point about a cease fire.

Clifford said that in all his dealings with the NVNese, they have always been dead set against any deal involving a cease fire, and Clifford says the President knew that.

There was also comment today from Republican Congressman Pau McCloskey of California, who is running in the New Hampshire Primary against Mr. Nixon's VN policy.

CONGRESSMAN PAUL MCCLOSKEY: I didn't think he said too much that was new, except to disclose the secret negotiation efforts. I think that as long as the President continues to insist on the survival of the Government in SVN that the other side isn't going to be impelled to negotiate.

I think that the purpose of the speech is more here for domestic consumption than there's any hope of expectancy that it was going to be answered affirmatively.

CHANCELLOR: It's being said at the White House that the President decided to disclose his own secrets because of domestic divisions in the country. Mr. Nixon has been called his own Daniel Ellsberg.

Domestic divisions on the war, however, are at a low point, and some cynics have suggested that the President's dramatic disclosure had something to do with all those politicians running against him.

Jan. 29
1972

John
C. ...

ASSOCIATED PRESS
FEBRUARY 21, 1972

Peace Plan Comes Under Sharp Attack

REASONER: President NIXON's eight point peace plan came under sharp attack today from Senator Edmund MUSKIE. The Democratic presidential front runner delivered a major foreign policy speech in Washington.

FRANK REYNOLDS: MUSKIE's immediate response to the President's peace plan was cautious but basically positive.

And he believed, criticism of Mr. NIXON would be resented. Now, a week later, he has changed his mind.

SENATOR EDMUND MUSKIE: Most Americans thought they heard the President agree to set a date certain for our withdrawal.

But it is not the genuine date certain so many of us had urged on him.

He did not offer to exchange our presence in VN for the freedom of our prisoners.

Instead, he laid down additional conditions, in short, in the face of a frustrating deadlock, the President has basically renumbered and reissued the proposals that have failed for six years.

We are still trying to win at the conference table what we have not won and cannot win on the battlefield.

REYNOLDS: One week ago, MUSKIE was persuaded that he would suffer a political backlash if he criticized the President's peace plan.

He no longer feels that way and again insists the only way to end the war and recover our prisoners is to withdraw all Americans and leave the SVNese to deal with the NVNese.

MUSKIE now believes that not only would that be wise policy, but is good politics.

REASONER: While Senator MUSKIE has been relatively subdued on the VN issue up to this point, another Democratic presidential hopeful, Senator George MCGOVERN has made it a major part of his campaign.

This week MCGOVERN is campaigning in New Hampshire.

BILL MATTNE: One year and a million dollars later, George MCGOVERN now believes he is finally seeing some momentum in his long campaign for the Democratic presidential nomination.

Here in New Hampshire, MCGOVERN emphasizes first that he is a serious candidate all the way to the last delegate vote in Miami Beach six months from now.

SENATOR MCGOVERN: I think what we have to demonstrate to skeptical people who might want to support me on the basis of my views but who wonder whether I can really win, we have to demonstrate to them that we do have strength where the voters are.

I've got to either come through with a victory or I've got to come through very strong in some of these early primaries.

I don't say I have to win them all or even to win one of them, but I do have to indicate that I'm a serious contender and that I can draw a heavy vote at the grass roots.

MCGOVERN: I would commit us to a definite date - I would make the same kind of a commitment that the Premier of France once made that if he couldn't meet that commitment, he would be willing to resign.

THE
ISTON GLOBE
FEB 22 (6)

The road to Vietnam peace

The government of North Vietnam has now made public the text of the nine-point peace plan it offered secretly to the United States last June. This is the plan mentioned Jan. 25 by President Nixon on nationwide television and subsequently discussed in some depth by Presidential Assistant Henry A. Kissinger at a press conference the following day.

Examination of the text, and commentaries upon it by leaders of both sides, makes it painfully clear that the United States and Hanoi are still a long way apart in at least two major respects.

First, there is the issue of a timetable for the withdrawal of US military forces from Indochina.

Hanoi's position was, and remains, that the United States withdraw unconditionally from all of Indochina within approximately six months.

The United States' position is that withdrawal should take place only after agreement has been reached in principle on a final settlement of the differences between the US and its enemies.

Thus Hanoi demands withdrawal by a date certain. We propose a date uncertain - since we set no date for the final settlement.

The second major divergence of aims lies in the contending proposals over the political future of South Vietnam.

Here, Hanoi wants us to abandon the Thieu government forthwith and agree to replace it with a "new administration standing for peace, independence, neutrality and democracy." This administration would negotiate a political settlement with the Viet Cong.

For our part, we would have an election carried out by a commission with Communist participation. One month before this election, President Thieu and Vice President Huong would resign. Thereafter, a caretaker government headed by the chairman of Thieu's Senate would reign until a new president was elected.

The chances of the United States achieving significant modification of Hanoi's demands through further negotiations are plainly slim and getting slimmer as we continue the unilateral withdrawal of our ground forces from South Vietnam.

There is virtually no incentive for Hanoi to agree to a compromise political settlement just to get a date certain for our final withdrawal, since we are withdrawing our

ground forces anyway and have the reputation of bombing from the air, as a means of limiting the North Vietnamese to feel has already been tried by former President Johnson and proved a failure.

As for President Nixon's proposal for a new election, it seems calculated to perpetuate the present governmental system and certainly is regarded as such by the North Vietnamese.

As the Times of London has observed, "this would leave the South Vietnamese army and administration, right down to the village level, still in effect answerable to President Thieu. Thus the independent body supervising the elections on which Communists and others would be represented would have little direct power."

To expect that Hanoi would accede to Mr. Nixon's proposal is unrealistic. Their object is to see that the Thieu government is supplanted, not perpetuated in power.

Thus, barring major new initiatives on Mr. Nixon's part, the prospect is for prolongation of the war through continued arming of the South Vietnamese and, perhaps, stepped-up retaliatory bombing of the kind already begun late last year. In short, perpetuation of a limited war. And so long as this is the case, the problem of freeing our prisoners of war will remain unsolved.

Is there then a way out of the dilemma?

The Globe believes that there is one way, and only one: Simply, it is for the United States to offer the enemy a firm and early date for our withdrawal from Indochina - lock, stock and barrel - in exchange only for the simultaneous release of the prisoners of war.

This is not unconditional surrender. It is only recognition of the realities of a situation which has gone on far too long from the standpoint of all the combatants.

As former chief US representative to the United Nations, Charles W. Yost, has pointed out, the time is long since past when we had the capability of playing a decisive role either in propping up the South Vietnamese government or changing it.

"The future of Vietnam," says Mr. Yost, "will eventually be settled between the two Vietnamese governments, either by negotiation or continued fighting. ... Vietnamese politics is no longer our business. That should be the ultimate meaning of 'Vietnamisation.'"

Wanted: Deal Rejected By Hanoi Won't Release POWs in Trade For Pullout

By Hedley Burrell
Washington Post Staff Writer

North Vietnam's chief delegate to the Paris peace talks made it clear yesterday that his side will not give up prisoners of war in return for withdrawal of all U.S. forces.

The delegate, Xuan Thuy, also indicated that the military and political issues must be handled together.

The conditions for settlement, he said, changed with re-election last October of a Vietnamese President Nguyen Van Thieu.

He suggested that the POWs could have been returned in exchange for a total withdrawal, and the political and military issues could have been handled separately last year if the Nixon administration had withdrawn support of Thieu.

"It would have allowed Mr. Nixon to get out of the war very honorably," Thuy declared on "Face the Nation" (CBS-TV). But Mr. Nixon refused to do that.

Thuy asserted in a New York Times interview Saturday that had the United States set a precise date for withdrawal before the October elections, Thieu would not have been re-elected. He thus suggested that an overall settlement would have been possible by withdrawal alone.

Secretary of State William P. Rogers, reacting on a separate segment of "Face the Nation" to Thuy's comments, said, "We have on every opportunity pointed out that a Vietnam would not have a separate military and political settlement. Thuy has said, 'We won't return your POWs unless you throw out'

any military and political issues.' It is not the Saigon regime with support of the U.S. that is the problem. We're supporting the people in South Vietnam so that they can decide their own future. We just want to work out a solution so South Vietnam can decide its own future."

Thuy was interviewed in Paris. Rogers in Washington. Sen. George J. McGovern (D-S.D.), a presidential aspirant, has repeatedly urged that the Communists would release the POWs if Mr. Nixon set a firm withdrawal date. Thuy indicated yesterday that while this would have been possible before the October elections in Vietnam last year, it was no longer the case.

Sen. Edmund S. Muskie (D-Maine), who has come under fire for tagging Mr. Nixon's peace proposals a ruse, said the United States should offer a withdrawal date in return for the POWs and press Saigon to work out a settlement with the Communists.

Except for the suggestion that the United States pressure Saigon to talk with the other side, Muskie's proposals are not considered drastically different from those of Mr. Nixon or other Democrats.

In Miami Beach, another presidential hopeful, Sen. Hubert H. Humphrey (D-Minn.) said in an interview with Paul G. Edwards of The Washington Post that he does not consider the North Vietnamese position outlined by Thuy to be an obstacle to ending U.S. involvement in the war.

"Our last priority should be the preservation of Mr. Thieu as head of the South Vietnamese government," Humphrey said. "He has indicated he is willing to step aside... the point is that his successor should not be selected by either the United States or North Vietnam. The people of South Vietnam must have the right to choose a leader in elections that include the Vietcong."

Presidential adviser H. R. Haldeman, meanwhile, in an interview to be broadcast on the "Today" show (NBC-TV), said that critics of Mr. Nixon's efforts to reach a Vietnam settlement were "consciously aiding and abetting the enemy."

In the interview broadcast yesterday, Thuy asked: "Why doesn't President Nixon make a statement stopping commitment to the Saigon administration? And then the Vietnam problem would be very rapidly solved, both political and militarily."

Thuy was asked why North Vietnam refused to let an international group of observers visit American POWs.

"The conditions of this war are different from any other war," Thuy replied. "You must understand that. The war in Vietnam has its own characteristics. If now we let those people 'just camps it might help Mr. Nixon in his aim...'"

He then referred to the unsuccessful U.S. commando raid of a POW camp in North Vietnam in 1970.

Thuy said that the disclosure Jan. 25 by Mr. Nixon of secret meetings between U.S. national security adviser Henry Kissinger and North Vietnamese negotiators was a serious obstacle to a peace settlement.

This was the second time that Mr. Nixon disclosed secret meetings to end the war, Thuy added. The first, he said, was in 1969, when the President spoke of talks with the North held by Henry Cabot Lodge, then the U.S. chief negotiator in Paris.

Asked if his side would favor new talks should Kissinger request them, the minister responded that it would depend on whether Mr. Nixon was serious about reaching a settlement.

He said he does not think that the United States and China would strike a deal adverse to North Vietnam when Mr. Nixon visits Peking later this month.

Peking has always supported progressive movements, he said, adding that China had denounced the U.S. peace proposals and supported the Viet Cong's bid for the total withdrawal of U.S. forces and the end of American support for Thieu.

Asked why the POWs had to be used as pawns in the negotiations, Thuy replied, "It is Mr. Nixon who uses the POWs as pawns, not us."

He said the prisoners were receiving medical treatment and a new list of captives would be published "in due time."

Rogers was asked about the prospects for a North Vietnamese and Viet Cong offensive in the near future.

"My information," he said,

is that they are moving troops down to a central highland and strengthening their forces near the Demilitarized Zone." He said an offensive could come within the next month and might coincide with Mr. Nixon's Feb. 21 visit to China.

Thuy said the reports were all speculation.

"Statements make me wonder whether it is the United States who is now conditioning opinion for launching some military adventures against the Vietnamese..." he remarked.

In Paris, meanwhile, Jean de Broglie, leader of a French parliamentary mission visiting North Vietnam, was quoted as saying the Viet Cong not only was insisting that the police system in the South be dismantled.

It was put to Rogers that the Communist position "all boiled down to one point—'how they define continued American support of Saigon.'"

"It appears very clear from both these broadcasts that there is something utterly irreconcilable about it—both philosophically and politically," an interviewer suggested.

Rogers answered that negotiations always "seem irreconcilable until they're reconciled."

"I think the President's proposals provide us a foundation on which negotiations could succeed," Rogers added.

3/24/72 E on Hill Launch New Drive for U.S. Vietnam Pullout

By Spencer Rich
Washington Post Staff Writer

Accusing President Nixon of plans to continue massive Indochina bombing operations indefinitely, seven Democratic senators and 34 House members yesterday launched a campaign to cut off all funds for all U.S. bombing, shelling and land operations in Indochina within 30 days.

Sen. Mike Gravel (D-Alaska), the chief Senate sponsor, said the President, while withdrawing ground forces from Indochina, was stepping up the bombing and offshore shelling and creating an "au-

tomated war... that may literally hover over Southeast Asia for years to come."

According to Gravel, Sen. Walter Mondale (D-Minn.) Rep. Robert Drinan (D-Mass.) and other sponsors of the new fund-cutting legislation, the bombing is intended to preserve American-backed governments in power in Indochina without the use of U.S. ground forces.

Gravel and Mondale, as well as Fred Branfman, director of a group called "Project Air War" who appeared with Drinan at a news conference, displayed what they said were

anti-personnel weapons dropped by U.S. planes to cripple and maim North Vietnamese civilians.

The devices included a plastic shrapnel bomb whose fragments don't show up in the human body under X-ray; a small pin-like weapon with a raspy tooth, called a flechette, which rips the flesh; and a fragmentation bomb.

Gravel read from a letter which he identified as a Dec. 10, 1971, report from the Defense Department, in which he said the government denied using plastic shrapnel weapons.

"Yet they are manufactured by a U.S. manufacturing company within 25 miles of this room and used in Indochina," he asserted.

The legislation outlined yesterday would require total withdrawal of all U.S. forces and a cessation of all U.S. air and shelling operations throughout Indochina within 30 days after enactment, in exchange for North Vietnamese agreement to release of U.S. prisoners. If there is no such agreement, the date of withdrawal would be extended for 30 days. But after that, unless cancelled by Congress, the withdrawal would proceed with or without a POW agreement.

All activities outside South Vietnam would stop immediately; the 30-day limit would be to allow withdrawal of U.S. forces from South Vietnam.

WASHINGTON POST 26 MARCH 1972 (27) Slamming the Paris Door

Mr. Nixon's decision to suspend American participation in the Paris talks with Hanoi and the Vietcong does nothing so much as call into question his interest in a negotiated Vietnam settlement. We would have thought it essential to his own purposes to stay at the table, no matter how abusive or unresponsive the other side might be, in order to keep pressing his eight-point settlement proposal of Jan. 25. The resultant image of patient earnest questioning could have served his diplomacy and his politics as well.

Instead, the President had Ambassador Porter deliver a savage and bullying attack on the Communists; part of it is excerpted "For the Record" on this page today. Although the Communists spoke first, Mr. Porter's prepared statement read: "Our side is very disappointed by your presentations of today." The clear intent to break things off is evident. The statement was studded with gratuitous remarks explicitly and insultingly questioning the other side's good faith. His demand that Hanoi apply the Geneva Convention to American prisoners could not have been put in a form more certainly calculated to draw a rejection. It is almost as though the President feared that North Vietnam might be inclined to grant him a point on the POWs and thereby to make it more difficult for him to continue the air war and to continue his support of Saigon.

Ambassador Porter's words on suspending negotiations were utterly metricious. There will be

no more Thursday talks, he said, until "some sign from you that you are disposed to engage in meaningful exchanges." He went on: "If you do indicate a desire for 'serious discussion'... we may need to explore your intentions rather fully prior to agreeing to meet." We do not say—nor can anyone know: that is the point of talking—that Hanoi and the Vietcong are interested in negotiating now. But we do not see how any self-respecting party could continue talks on the arrogant conditions laid down by Ambassador Porter. To speak as he did on the eve of the return to Paris of the chief Vietcong negotiator, Mrs. Binh, is to assure that the United States will not soon hear any hints of change the may have borne.

Will this gesture by Mr. Nixon "break the filibuster," in his own phrase Friday, or reduce the Communists' propaganda opportunities, or leave open whatever secret negotiating channels may still exist? Will the American electorate appreciate the President's show of toughness? Will the Russians in May be the better induced to urge compromise on their Vietnamese friends? How will the American prisoners (and their kin) react to learning that Mr. Nixon has blocked indefinitely the one bridge—negotiations—by which they might cross back home? The answers are problematical. But we suspect that if the President had deliberately set out to impair the chances of his own Jan. 23 proposals, this is what he would have done. And we cannot understand why.

WASHINGTON POST 17 APRIL 1972

Vietnam: "Getting Out" by Way of the Brink

What President Johnson and his predecessors steadfastly tried not to do over 15 years or more, President Nixon has managed to do almost overnight: he has brought the war in Indochina to the brink of a head-on confrontation with the Soviet Union by his decision to send American bombers over the suburbs of Hanoi and the port of Haiphong and to smash an American naval armada off the North Vietnamese coast.

There does not seem to be any other way to interpret what he has done. One could understand—if not accept—the monumental air support given to the South Vietnamese during the ongoing North Vietnamese offensive of the past few weeks, and the systematic substitution of our air power for our manpower in the months before that. One could see this as having something to do with bolstering the South Vietnamese forces, and even with "saving the lives" of our remaining troops. Leaving aside the cynical euphemism of "protective reaction," there were enemy tanks to be hit, and SAM missile sites to be taken out and trucks and roads and bridges to be blown up. You could even believe, but just barely, that most of this was being carried on in remote, unpopulated areas so that civilians were pretty much out of the way of it.

But you cannot believe that anymore about a reversion to bombing tactics which plainly endanger population centers and which cannot be related in any immediate sense to the fighting now under way south of the Demilitarized Zone and in the Central Highlands and around Saigon. Nothing that is blown up in Hanoi or Haiphong today is going to influence, in any direct way, the course of battle in the South for a good many months, perhaps even a year; we have ample evidence of that, out of long experience.

And you cannot seriously believe that this revival of the thumbscrew is directed at "the will of Hanoi" for we have more than enough evidence on this score, too: the thumbscrew sometimes called "rolling thunder" (by the military) or "graduated response" (by the professors in residence in government), has never really worked. In the days of Dean Rusk and Walt Rostow, it didn't persuade the North Vietnamese to "leave their neighbors alone"—if anything it stiffened them—and there is no reason to believe that the effect would be any different now. Moreover, there is nothing "graduated" about what is going on.

So you have to assume that the Russians, who are the main suppliers of the heavy weaponry now in use by the North Vietnamese, are the main object of the weekend bombing strikes around Hanoi and Haiphong; that the President is reviving and applying what John Foster Dulles described as "the necessary art" and which his critics called "brinkmanship": that he is seeking to persuade the Russians to use their benefactor's influence on Hanoi either to slow down the current offensive or, to promote negotiations, or both; and that he is prepared, for lack of any other leverage, to throw Soviet-American relations into the scales, to put the SALT talks and the European detente and Russia's alleged anxiety over China and East-West re-

lations in general on the table, for the sake of salvaging whatever precisely it is that Mr. Nixon would conceive of as an "honorable" way out of the war.

There is a grim logic in this assessment. It fits the long-standing concepts about the utility of air power, particularly in Indochina. It is quite in keeping with his oft-expressed admiration for the way President Eisenhower supposedly achieved a Korean truce—by threatening the Chinese with nuclear attack. It accords with the Administration's own proud account of how Jordan was saved and a Middle East conflagration averted—by the maneuvering of American sea power in the eastern Mediterranean. It would be, in short, almost a classic exercise in balance-of-power politics of the sort that Mr. Nixon and Dr. Henry Kissinger have long espoused.

In other words, it figures—which leaves you to wonder only by what set of values, or what sense of American obligations or security interests, or what reading of American sentiment, it is necessary at this stage of the game to go to the brink with the Russians over Vietnam?

We were told long ago of a plan "to end the war." Can this be it? Can the Russians, in fact, maintain their position in the world while telling their sister socialists in North Vietnam to abandon what they have been fighting for these forty years?

We were told that the South Vietnamese could "hack it by themselves." Are we now to believe that what this really means is that this country must not only continue to provide massive combat air support but also to confront the Russians with the twin threats of aerial and naval blockades against North Vietnam? Is this what "Vietnamization" is all about? Or isn't the real meaning of the Hanoi-Haiphong raids that "Vietnamization" doesn't work well enough to guarantee the President the kind of outcome of the current Vietnam fighting he could feel comfortable with, either in Moscow at next month's summit or in the election campaign next fall?

This, in our view, is the nub of it—the sort of outcome the President wants and the risks that are worth taking to bring it about. For the risks involved do not seem to us to bear any relationship to the possible gains. If the President's "Vietnamization" policy is as successful as he would have us believe, we have done all that we could reasonably have been expected to do for the Saigon government and we ought to fix a date for our total military disengagement, negotiate as best we can for the return of our prisoners, and get out.

If "Vietnamization" turns out, in fact, to be less than it has been proclaimed to be, the end of it all in Vietnam may then be something well short of what we set out to accomplish, and some might even see it as "dishonorable." Against that ultimate, and still hypothetical judgment, however, you have to weigh the honor, not to say the sanity of trying to influence the outcome in Vietnam at this late date by resuming bombing in or around population centers in North Vietnam for the indirect and largely theoretical effect this may have on the actions of the men in power in Moscow or Peking or Hanoi.

4/15/72

War Critics on Hill Assail U.S. Tactics

By JIMMY ELDER

Spurred by the increased U.S. bombing in Vietnam, war critics in the House and Senate are moving to limit their attack on the Administration's policies.

During the bombing for the third day in a row, Sen. Edward Brooke of Maine, a candidate for the Democratic presidential nomination, said last night that President Nixon is doing the United States "irreparable harm" and undermining the sense of decency with the renewed attacks on North Vietnam.

Another candidate for the nomination, Sen. George S. McGovern of South Dakota, said: "Anything the stepped-up bombing will only unite the will of the Viet Cong in the same way as continued Nazi rule over England united the British in World War II."

Effort to End War

In the House, the Democratic caucus will meet tomorrow to back a new legislative effort to end the war within 30 days.

Rep. Thomas P. O'Neill of Massachusetts, assistant Democratic leader and one of the sponsors of the latest anti-war move, questioned yesterday whether the new and heavy bombing indicated that President Nixon is willing to risk World War III in support of the Thieu government.

GOP leader Gerald R. Ford of Michigan angrily charged O'Neill with raising a "red herring." The bombing, he said, is needed to protect U.S. troops in South Vietnam against an invasion by the North Vietnamese.

Other House members criticized Nixon's policy as "bankrupt," a "fraud" and unconstitutional. Only Congress, not the President, has the power to wage war, Rep. William F. Ryan, D-N.Y., said.

Praise for Nixon came from a Southerner, Rep. Joe D. Wagsoner, D-La.

"Nobly," Wagsoner said, "in his right mind is for war. But there are times when we must face a situation as it is. We must respond, and I commend the President for having the fortitude to do it, to protect American troops."

Muskie hit at the bombing during an emotional address to a fund-raising dinner here last night.

"You know this President hasn't even undertaken to tell our people why he has done what he has done," Muskie said. "He has escalated the war in Vietnam beyond any dimensions that we have known. He has taken on risks not only for our military forces in Vietnam but for us beyond any that have been taken in this war."

Muskie said Nixon has revived "the discarded policy" of former President Lyndon B. Johnson—a policy that Muskie once supported himself.

"I understand, of course, that his Vietnamization policy is in jeopardy," Muskie said. "I understand, of course, that this creates grave political uncertainty for the President in this election year."

"But what I don't understand, and what he has failed to tell us, is how this serves the best interest of our people, how this adds to the symbolism of our country as a place of hope, as a force for peace and justice on this troubled planet," Muskie said.

Since the bombing of Haiphong began Saturday, Muskie has introduced a Senate resolution calling for an immediate end to all U.S. military action against North Vietnam. And he promised that if elected, "within two months of my inauguration, I will withdraw all of our forces from

Indochina" with release of prisoners as the only condition.

Meanwhile, Sen. Henry Jackson, D-Wash., said he approves the bombing of targets in North Vietnam, reminding newsmen that six years ago he advocated using U.S. air power to "scorify" Haiphong.

Jackson, campaigning extensively in Ohio prior to the May 2 presidential primary, said he supports "such bombing as is necessary to stabilize the military situation... so as to enable us to continue our withdrawal and bring our prisoners home."

Repeatedly, over the last few years, the House has been asked to condemn the war. Just as often, it has refused.

However, the number of Congressmen in favor of ending the war has increased slightly on each vote. And with the current stepped-up bombing, liberals see growing congressional opposition to the war.

The resolution sponsored by O'Neill and several others asks the Democrats to support legislation that would:

- Cut off money for U.S. military operations in or over North and South Vietnam, Cambodia and Laos 30 days after enactment.
- End funds for air and naval bombardment of North Vietnam, Laos, Cambodia and Thailand immediately upon enactment.
- Cut off money for bombing in South Vietnam immediately unless Nixon determines that such missions are necessary to protect American troops during withdrawal.

The legislation would provide for a 30-day extension of the deadline for military operations if prisoners of war are not released.

The request for endorsement from the Democratic Caucus is co-sponsored by Reps. William Anderson, of Tennessee, Philip Burton, of California, Robert Drinan of Massachusetts, Spark Matsunaga of Hawaii, Henry Reuss of Wisconsin, and Charles Vanik of Ohio.

Rails on North Vietnam Peril Nixon Stand Against Pullout Law, Especially in House

By NORMAN C. MILLER

Staff Writer of THE WALL STREET JOURNAL

WASHINGTON—The Nixon administration's renewed bombing of North Vietnam is threatening to destroy the White House's shaky defenses against end-the-war legislation in Congress.

The new drive for legislating a Vietnam pullout deadline is most dramatically evident in the House, which has always quashed Senate withdrawal proposals in the past. While the Senate moved toward a vote on a Vietnam measure, possibly next week, the unusually cautious House erupted over the newly charged war issue.

Yesterday, the House Democratic membership voted 144 to 88 to order the House Foreign Affairs Committee to introduce within 30 days legislation setting some deadline for total U.S. withdrawal from the war.

Moreover, the resolution adopted by House Democrats condemns the U.S. bombing of Hanoi and Haiphong as "a dangerous escalation of our role in the Indochina war." The Democrats also approved a one-sentence condemnation of North Vietnam's invasion of South Vietnam, but they rejected a tougher resolution attacking Russia, for its arms-supply role, as well as Hanoi.

The Democrats' unusual directive to the Foreign Affairs Committee poses the prospect of the first full-dress House floor fight over Vietnam policy. In earlier tests, pullout proposals always were handicapped because the House was considering Senate-initiated bills under restrictive rules. Still, in the most recent House test last October, administration forces beat back a pullout deadline by only 23 votes.

Gain in Strength
The overwhelming Democratic vote yesterday indicates that the opponents of the Nixon policy have gained strength since then. While a pullout bill might still be defeated in the House, to do so the White House would have to hold almost all Republicans behind the Nixon policy—and that would be difficult if current antiwar sentiment continues to boil.

The resolution by the Democratic Caucus directs the House Foreign Affairs Committee to write legislation establishing a date to "terminate all U.S. military involvement in and over Indochina," subject only to the release of U.S. prisoners and an accounting of the missing. Democrats control the House and thus have a majority of the committee. While the committee could nonetheless refuse to obey the Democratic directive, the unusual order by the party membership is so unusually strong that the measure's backers are confident that one way or another they will be able to force a pullout bill to the floor.

The effect of such legislation, even if passed, is questionable, as it would depend on acceptance not only by the Nixon administration but by the North Vietnamese. But its passage obviously would put powerful political pressure on the administration.

The Senate, which three times has approved policy declarations calling for a Vietnam pullout, may vote as early as next week on a far tougher proposition: A cutoff of appropriations for U.S. land, sea or air forces engaged in "hostilities in Indochina" after next Dec. 31. The cutoff would be conditional on the return of American prisoners of war.

Not even the Senate has been willing to invoke the ultimate congressional weapon of closing the purse strings on the war, though the doves have tried several times. The new effort is a rider attached to the Senate Foreign Relations Committee last Monday to a bill authorizing funds for the State Department. The amendment, sponsored by Sens. Frank Church (D., Idaho) and Clifford Case (R., N.J.), would cancel any other law authorizing combat spending in Indochina after this year.

Floor Vote Next Week

The State Department money bill is scheduled for floor action next week, and administration supporters will try to remove the Church-Case rider. However, the White House could decide to stall this vote in hopes the current criticism of the air action over Vietnam will subside, especially if there isn't any repeat bombing in the Hanoi area. Another reason for possible delay is the absence of Democratic Leader Mike Mansfield of Montana and Republican Leader Hugh Scott of Pennsylvania, who are in the middle of a three-week visit to China.

Another possible hitch to Senate approval of the Church-Case rider is dissatisfaction with it among some of the war critics themselves. Making the money cutoff conditional on release of the prisoners of war could indeed prevent a withdrawal, contends Sen. John Sherman Cooper (R., Ky.).

The POW condition was attached to the Senate's milder policy resolution last year as a way of nullifying the administration's use of this issue as a justification for keeping a residual U.S. force in Vietnam. Now, more antiwar Senators—including some Democratic presidential candidates—are openly suggesting North Vietnam will release the prisoners only after the American forces depart.

Sen. Jacob Javits (R., N.Y.) concurred in this view in a Senate speech yesterday. "It is my firm conviction that there should be no preconditions attached to the complete withdrawal of U.S. forces from Vietnam," he said. "The likelihood of getting out the prisoners is on precedent much greater on this basis."

The White House reacted angrily to the condemnation of its bombing policy by House Democrats. "Words and resolutions are very ineffective in stopping brutal armed aggression," declared Press Secretary Ronald Ziegler.

Mr. Ziegler also attacked the House Democrats for taking a "somewhat contradictory" position in condemning both U.S. and North Vietnamese military actions. "The (Democrats) are trying to have it both ways," he said. "In matters such as this they can't have it both ways."

Meantime, a group of long-time Senate and House doves joined antiwar organizers in calling for massive demonstrations on May 4 against the Nixon Vietnam policy. At a press conference, they said demonstrations are being planned in several cities.

At the same time, antiwar lobbying organizations, such as Common Cause, are beginning to organize a grassroots campaign in support of end-the-war legislation. The lobbying effort will concentrate both on the pending Senate measure and on members of the House Foreign Affairs Committee as they take up their bill.

Mr. Nixon's Brinkmanship

In ordering the closing of land and sea supply routes to North Vietnam by American military action, President Nixon is taking a desperate gamble that alters the entire nature of the war, that risks the fundamental security interests of the United States for dubious, precarious gains, and that runs counter both to Congressional mandate and to the will and conscience of a large segment of the American people.

The mining of the harbors of North Vietnam poses a direct challenge to the Soviet Union and other arms suppliers to Hanoi that could quite possibly escalate into a confrontation between the world's two great superpowers. Only the gravest threat to the security of the United States could justify such a challenge, as was indeed the case in the Cuban missile crisis. But Vietnam is not Cuba; and there is no conceivable American interest at stake in Indochina today as there was in Cuba to warrant the risk—and the escalation—the President has so clearly undertaken.

Let us grant that the North Vietnam Communists are infuriatingly—even insultingly—intransigent in the negotiations at Paris and are stubbornly aggressive in the field, as indeed they are. Let us grant that the United States still has a commitment to support to the death the present Saigon Government as representative of South Vietnamese democracy—a commitment which, if it ever existed, has surely been long ago fulfilled. Let us even grant—contrary to fact—that President Nixon's Vietnamization program has been a success and that all that is needed is a little more time and a few more arms to bring Hanoi's belligerence to a halt. Granting all these hypotheses, what possible good could President Nixon's sent escalation-confrontation accomplish?

Even if the closing of the ports by mining and the interdiction of land routes by renewed extensive bombing should succeed in their goals without retaliation by the Soviet Union and China, the resultant cutoff in supplies could not materially affect the outcome of the present North Vietnam offensive in the South.

In any case, the bulk of North Vietnam's military supplies enter not from the sea but from China via road and rail. The entire history of deep interdiction of supply routes from World War II to the present, demonstrates its ineffectuality. At most, therefore, Mr. Nixon's orders would simply tend to move Soviet supplies back to the trans-China route and shift the balance of influence in Hanoi a little more toward Peking.

This semi-blockade policy is both ruinous and impractical, and it is difficult to understand how the President and his advisers, given the history of the war, can genuinely believe in it either. But to explain it, as the President did in his television address Monday night, as a means of protecting the American troops still remaining in Vietnam strains credulity to the breaking point. In fact, it is painfully obvious that Mr. Nixon's escalation of the conflict, including the stepped-up bombing of the North in reprisal for the Northern successes in the South, only increases the peril of American ground troops in Vietnam while obviously raising with every air raid the potential number of American prisoners held by Hanoi.

The President's risky action Monday evidently signals a decision to intensify and enlarge American military involvement in the war from sea and air, with all the attendant risks accompanying such escalation. The President is in fact leading the country down precisely the road—though by different means—that President John F. Kennedy did in 1955. The difference is that President Nixon

is taking the country very near to a Constitutional crisis; Congress can yet save the President from himself and the nation from disaster.

Even the price offer included in Mr. Nixon's speech has a specter—ring to it. He tells Hanoi that if it agrees to an internationally supervised cease-fire and returns the American prisoners, the United States "will stop all acts of force throughout Indochina" and will be out of Vietnam "within four months." On the face of it, this sounds as though Mr. Nixon were at last cutting off ties with the Saigon Government, for there is no mention of any political condition whatsoever. But given Hanoi's present military successes, there is little incentive to North Vietnam to accept a cease-fire now, and while Mr. Nixon specifically promises American withdrawal from Vietnam within a short period, he does not promise withdrawal from the neighboring States, leaving the implied threat of American force and American power still hanging over the peninsula.

By his rash and precipitate action, President Nixon is not only risking military confrontation with the Soviet Union over an issue that is not and never has been vital to the security interests of the United States, he is also risking the almost equally dangerous collapse of the painfully built progress toward a genuine diplomatic détente, at it is already taking form in the SALT agreements and would surely be further advanced by the now-threatened Moscow summit conference.

By his action, President Nixon is also inviting Soviet retaliation, if not in East Asia, then in other sensitive parts of the globe. By his action, he is unwittingly encouraging the Soviet hawk. By his action, he is inciting the possible speedy dissolution of the thin and delicate relationship just painfully constructed with Peking. By his action as well as his rhetoric, he has dug the United States deeper into the hole from which it had for four years been trying to extricate itself in Indochina.

And by his action, he has clearly defied the Congress if not the Constitution. This may turn out to be the most dangerous of all the ominous aspects of Mr. Nixon's present course. The Congress of the United States last year resolved that it was "the policy of the United States to terminate at the earliest possible date all military operations of the United States in Indochina. . . . Mr. Nixon said at the time that the resolution was "without binding force or effect and it does not reflect my judgment about the way in which the war should be brought to a conclusion."

But now Mr. Nixon has in effect defied the expressed will of the Congress by replying to North Vietnamese escalation with more escalation—an old, familiar and demonstrably useless course of action. His dangerous and unnecessary resort to semi-blockade and massive bombing in a futile search for military victory in an undeclared war repudiated by a large section of the American people can only weaken the country internally and discredit it abroad.

The only recourse now is in the hands of Congress. It still has the Constitutional power to curb and control the Executive. While it is an extremely distasteful action, under the circumstances Congress still can regain its under the general lines of the Church-Case amendment along the general lines of the Church-Case amendment in the Senate. It can shut off funds for all further military operations after return of the prisoners and after a certain date, either in Indochina as a whole or, as a more limited restraint, above the North Vietnam peninsula.

Mr. Nixon is pushing the country very near to a Constitutional crisis; Congress can yet save the President from himself and the nation from disaster.

NYT
5/10/72

NATIONAL NEWS 23 MAY 1972 (15) The Danger of Definitions

...the President and briefing by Dr. Henry Kissinger, the President's chief of staff, of curbing on the public dialogue about the war. The more one knows about what they have to say, the clearer it becomes that U.S. policy is almost hopelessly enshrined in myth and illusion. From the outset, American policy in Vietnam has been based not on misconceptions or erroneous judgments but on willfully false definitions. Over a twenty-year period, these definitions have been undismantled and are now firmly embedded in innumerable policy statements. By dint of bipartisan repetition at the highest levels, these definitions have, to some extent, been accepted by a large section of the public as unassailable propositions. Still worse, the decision makers are so enmeshed in these false assumptions that they habitually defend themselves.

A fundamental rule in the rational handling of embittered controversies is that each party should be able to give a fair and accurate statement of the other's position. Neither the President nor Dr. Kissinger is capable of such an exercise. They cannot or will not see the situation as the North Vietnamese must see it. Or, for that matter, as the Russians or Chinese may see it. Or, if they can, they are so caught up in their own mistakes that they cannot afford to make the effort. Worse, they must cling to these accumulated false definitions in order to avoid acknowledging profound misjudgments by themselves and their predecessors. So they take new and steadily more dangerous risks in a desperate effort to redefine the situation in a way that will rally domestic opinion and shore up a disintegrating political position.

Thus the President's latest gamble is not primarily designed to "win" the war—his own actions and statements imply that it has been lost—but to make it possible for him to journey to Moscow without the stigma of defeat. It would be difficult to negotiate with the Russians about anything just when, say, the North Vietnamese were entering Hue. At the same time he assumes that he can count, at least temporarily, on a section of the public rallying "in support of the President," as it usually does in a time of national crisis. So he is willing to accept the risks because, as he sees it, he has run out of options. But what if the Russians elect not to stage a direct confrontation? What will the next escalation be? A landing of some kind in the North? A threat to use nuclear weapons (as Dulles once threatened the Chinese through the Indian ambassador?) Or the actual use of tactical nuclear weapons?

Bewitched by 19th-century notions of power, Kissinger believes that if preponderant power is escalated a step at a time, and if the "carrot" is seemingly sweetened a bit at each escalation, the enemy must eventually do the bidding of those who turn the screws. It was Metetrnich's

Russian Empire, which was the model for the United States with the plantation in Vietnam in 1944. But the trouble in Ireland has not yet ended nor will it until the British cut themselves out of the Irish. General de Gaulle tried to hammer this point home to President Kennedy about Vietnam, but without success. In *Memories of Hope*, he quotes himself as having said to Kennedy: "You will find that intervention in this area will be an endless entanglement. Once a nation has been aroused, no foreign power, however strong, can impose its will upon it."

Kissinger's strategy of escalation also assumes that the way to win in the nuclear poker game is to raise the ante at the right time, in such a way as to force the opponent to make the hard decision of acquiescence in the ultimatum (the bid for power) or of staging a counter-escalation. But suppose the other party elects to do nothing for the time being? Suppose the Russians and the Chinese believe (and in this they would be supported by CIA and other "evaluations") that mining the harbors of North Vietnam and bombing the rail links to China will be as ineffective as Vietnamization in solving America's dilemma? No one pretends that the recent actions can have any short-term effect on the war, and substantial expert opinion on logistics believes that the long-term effect will also fall short of the goal. Mr. Nixon, then, will have "spent" one of his few remaining options to no avail, and will be faced with the need to employ some still more dangerous escalation. It is a progress from unjustified aggression to complete outlawry.

There were, to be sure, some new elements in the offer which the President tried to bury beneath the bluster and arrogance of his address, but the North Vietnamese are not likely to take the bait. So then what? He could try to take the entire issue to the Security Council, but he won't. There is, of course, the possibility of a coup in Saigon. Thieu's declaration of martial law is evidence that he senses the danger. If the present regime were forced out, the successor regime would not need to be called a "coalition" government even if it were that in fact.

In the meantime, the war continues, the number of POWs is increasing, the destruction is mounting, and so are the casualties, and Nixon's Vietnamization policy is in tatters. Why, then, doesn't the President show real concern for the American honor about which he talks so much? Why doesn't he follow the examples of Mendès-France and de Gaulle, who saved French honor by bowing out of Indochina and Algeria? The answer, in brief, is that they were not self-deceived, whereas the President has so entrapped himself in a weight of dogmas, promises, affirmations, threats, declarations and false definitions that he is incapable—psychologically, morally, intellectually, politically—of facing the reality of defeat.

THE TODAY SHOW NBC TV 7:00 AM
June 8 1972
An Interview with Senator McGovern

BILL MONROE: ...Senator, you have talked about going to Hanoi or to Paris, if necessary, to try to wrap up an agreement to end the Vietnam war and bring the prisoners home. And you have said you have no doubt that you can accomplish such a negotiation.

Now, this suggests that you're going to offer Hanoi something President NIXON is not offering Hanoi. What would that be?

SENATOR GEORGE MCGOVERN: I would offer them two things that I think are essential to bring about the release of our prisoners and to end the war. Number one, I've felt for months that we're going to have to set a definite deadline for ending all American military operations. And I think that has to be announced in advance. I don't think they're going to negotiate that point. We'll just have to say that within ninety days, or some such period of time, all operations will be ended.

The second thing we're going to have to agree to is that we will cut off any further foreign military aid to the government in Saigon, the THIEU regime.

Now, I would be willing to make those two concessions in advance, with the understanding that if we carried out our part of the bargain, our prisoners would be released, our missing in action men would be accounted for, and our troops would be permitted to withdraw in safety. And I don't have the slightest doubt that that can be negotiated.

The trouble with our present policy is that while we continue the bombing and continue the military presence in Southeast Asia, the other

side is not. I think the only way of massive aerial bombardment. They're holding on to it, partly to -- as a protection -- one -- against that.

FRANK MCGEE: Senator McGovern, you say you would make these concessions in advance and then negotiate the release of the prisoners. If you made the concessions in advance, with what would you be left to negotiate?

SENATOR MCGOVERN: Well, I would make clear, Mr. McGee, that the reason for setting the timetable for our withdrawal and the reason for our pledge to cut off aid to the THIEU government was with the understanding that our prisoners would be released, as prisoners always have been at the end of a conflict.

Now, we have to keep in mind that the other side has no selfish interest at all in holding those prisoners once we've agreed to get out and once we've cut off aid to the THIEU regime in Saigon. But as long as we continue our military presence there, I'm convinced the prisoners will stay in their cells.

We know the present course isn't working. So let's make these two concessions that are in our interest anyway, which is to get out and which is to terminate any further military involvement with the THIEU regime, and then take whatever steps we can to see that our prisoners are released.

I am convinced that I could accomplish this whole matter within ninety days of becoming President of the United States...

WASHINGTON POST 13 JULY 1972 PY2

McGovern Changes On Asia Withdrawal

By Marilyn Berger
Washington Post Staff Writer

The day before the 1972 Democratic presidential nomination, Sen. George McGovern substantially moderated his position on withdrawing all American forces from Southeast Asia, saying he would "retain the military capability in the region" to assure the return of all U.S. prisoners of war.

In a statement in response to an endorsement by a group of relatives of American prisoners, McGovern pledged that he would "never abandon those men."

He said: "I intend to use every resource available to the President, including direct personal diplomacy in Hanoi, to insist upon release of all prisoners and a complete, impartial accounting for all missing in action."

Then he added: "While I am fully confident that there would be no such need, I would also retain the military capability in the region—in Thailand and on the seas—to signal and fulfill our firm determination on this issue."

Previously McGovern had said: "I don't think there's a chance in the world of getting those prisoners out of there until hostilities end and we get those troops out of there."

In his Tuesday statement he said the prisoner issue "is the only cause for which I would retain any U.S. forces in or adjacent to Southeast Asia." But he reiterated his position that the prisoners "will not be brought home by more American blood, by more American bombs raining on the people of Asia."

"Their only hope is peace," he said.

McGovern said that if he were elected President, "we would be out of the brutal war in Vietnam in 90 days. There would be no forces on the ground in Vietnam, and there would be no American aircraft bombing anywhere in Asia on behalf of the Thieu government."

He said: "We must take the keys to those (POW) prison cells away from General Thieu and place them in American hands."

McGovern said the POWs "can be returned within 30 days of a single decision—just their freedom, and not the political survival of a corrupt dictatorship in Saigon."

son. In our firm and only priority in Southeast Asia," McGovern's nomination was seconded last night by Valerie Kushner, the wife of Maj. Floyd H. Kushner, who has been a prisoner of war since November, 1967.

The Democratic Party platform adopted Tuesday states that "We must insist that any resolution of the war include the return of all prisoners held by North Vietnam and other adversary forces, and the fullest possible accounting for the missing. With increasing lack of credibility, the Nixon administration has sought to use the prisoners of war as an excuse for its policies."

The platform pledged, "as the first order of business, an immediate and complete withdrawal of all U.S. forces in Indochina."

In testimony before the foreign policy panel of the Democratic Platform Committee, Prof. Abram Chayes, a McGovern foreign policy adviser, said that "Sen. McGovern has said that if elected he will, on inauguration day, order an end to all armed action by U.S. forces in Indochina, except in self-defense if fired upon. He would withdraw all such forces, lock, stock and barrel, within 90 days thereafter."

Chayes said: "When the war is over there will be no need and no purpose for the North Vietnamese to hold them (the POWs). That is the way it has always happened after past wars. That is the way it will happen this time."

McGovern also threw his support behind an amendment to the proposed platform sponsored by Sen. Henry (Scoop) Jackson of Washington, strengthening the plank on support for Israel. The revised plank, adopted by a voice vote of the convention during the early hours yesterday, states that the next Democratic administration should "maintain a political commitment and a military force in Europe and at sea in the Mediterranean ample to deter the Soviet Union from putting its barbaric procedure on Israel."

McGovern has not altered his position that American forces in Europe should be reduced from 310,000 to 120,000 troops.

Church: Hanoi will get its own terms 7/22/72

By Courtney R. Sheldon
Staff correspondent of TCSM

While White House officials are alternately hopeful and discouraged over Vietnam peace prospects, a leading Democratic dove says that Mr. Nixon "has come to the end of his rope."

"If a settlement is possible at all," says Idaho Sen. Frank Church—who has been mentioned by Senator McGovern as a potential secretary of state—"it will have to be made on Hanoi's terms."

"Now it can be camouflaged to look like an acceptable arrangement. But I don't think Hanoi will back down on any of its basic demands."

He was referring to the possibility of some kind of interim cease-fire in South Vietnam in exchange for ending the U.S. bombing of the North.

The Idaho Senator was questioned on Vietnam in an interview as the Senate grappled with the Mansfield end-of-the-war resolution and Dr. Henry A. Kissinger kept his bags packed for further secret talks with the Hanoi delegation at Paris.

This central sticking point in Paris and in the debate in this country has not changed over the past two years, U.S. officials

acknowledge. How much further support should the United States give the SAIGON GOVERNMENT BEFORE IT IS LEFT TO DEAL DIRECTLY WITH HANOI?

The heavy air support that was dispatched to rescue the South Vietnamese offensive indicates, according to the doves, that the Nixon program of Vietnamization is not working even at this late date.

Secretary Melvin R. Laird and others, however, praise the South Vietnamese Air Force, point to the disruption of North Vietnam inflicted by U.S. bombers, and say these are the realities Hanoi must deal with.

It has been axiomatic among Democrats that Mr. Nixon needs peace in Vietnam to be re-elected. Statements by Mr. Nixon and Dr. Kissinger that the U.S. would now negotiate its "already generous" peace package still further have tended to confirm this.

A converse theory has gained more believers since the Democratic Party splintered itself at Miami Beach. It is that Mr. Nixon now doesn't need a Vietnam peace to smash the McGovern candidacy.

Indefinite holdout seen

Thus, it is argued, he can hold out for his terms indefinitely. The administration is passing the word to its newspaper columnist supporters that the Soviet Union and China have already concluded that Mr. Nixon will be re-elected and are advising Hanoi to make the best of this before the election.

In these moments of uncertainty on the President's ultimate decision, the tide of public opinion is being watched closely.

The television networks show films of destruction of civilian targets and a Swedish narrator says some legitimate military targets nearby were untouched. If this is so in a few instances, it is accidental, administration officials say.

The Rev. Dr. Eugene Carson Blake, secretary-general of the World Council of Churches, believes U.S. planes are deliberately bombing cities in North Vietnam.

According to Dr. Blake, he requested a meeting in April with President Nixon on behalf of a group of American church figures to "discuss the moral issues involved in the Vietnam war."

"As of today," he complained in a letter to Mr. Nixon, "There is no indication of your willingness to discuss these matters with the ecumenical leaders of your own country."

'Ought to have withdrawn'

Senator Church says he is convinced that "this bombing, despite the devastation, has really unified the North Vietnamese. . . . All

that's left is to level Hanoi. . . . I think they can absorb the last and final punishment we can give out."

In the Senator's opinion, "We could not honorably agree to the political conditions laid down by Hanoi. Therefore we ought to have withdrawn our own forces, inasmuch as we have fully armed and equipped the South Vietnamese to defend themselves."

"Had we done that, then the Vietnamese themselves would either have fought the war to a finish one way or the other, or would have found a basis for compromising the struggle. It would not have been one involving the United States or one that forces the United States to displace the very government we have undertaken for so long to sustain in power and in which we have sacrificed so much."

What chance to succeed?

What assurance is there that the Church-McGovern plan for ending the war will be any more successful than that of Mr. Nixon, the Senator asked.

"One thing that should be clear by now is that the strategy of retaining American forces in South Vietnam and continuing to participate in the war has not succeeded in releasing prisoners," he replied.

"I think, and I've thought all along, that North Vietnam will never be willing to give up our prisoners until we are willing to give up the war."

"Hanoi then would have no further reason for keeping them once we have stopped bombing the North and once we have withdrawn the balance of our forces from the South. This has been the case in the past. It was true with the French. It was our experience in Korea."

What basis for expectation?

Is there anything in the record of North Vietnam that can be pointed to which demonstrates that Hanoi would do as the doves say they would?

"I should think the evidence is there only in a negative way. Time and time again they have said the prisoners won't be released until the United States ends its participation in the war."

Administration spokesmen have said they, too, would be willing to settle for a military solution—that is, one that leaves a political settlement up to Saigon and Hanoi. But they insist, Hanoi balks.

The counter to this by the doves is that the Nixon administration would continue aid to the Saigon government, whereas the Democrats would cut it off. This, the doves say, would be sufficient concession to Hanoi and Hanoi would not expect the U.S. to get involved in forming a coalition government.

WASHINGTON POST
26 July 1972 P14

Jane Fonda Says POWs Fear Nixon

From News Distribution

PARIS, July 25 — Jane Fonda, back from Hanoi, said today a group of American war prisoners asked her to tell their parents and friends to work for the victory of Sen. George McGovern because "they fear if Nixon stays in office they will be prisoners forever."

The actress said at a news conference that seven prisoners she met gave her messages for scores of people urging them to defeat President Nixon in the November presidential election.

The prisoners, wearing purple and red striped uniforms, were shown in a 20-minute silent color film with Miss Fonda during her North Vietnam visit July 8-22.

The rest of the film, emphasizing what the actress considers to be deliberate American attacks on the North Vietnamese dike system, showed her in black native pajama pants and a black T-shirt touring paddy fields and wading through bomb ruins.

The actress acknowledged that she had made daily broadcasts over Hanoi radio aimed at American servicemen, but did not reply directly to a question about the statement by Rep. Fletcher Thompson, (R-Ga.) that treason charges should be brought against her.

She did say, "Given the things that America stands for, a war of aggression against the Vietnamese people is a betrayal of the American people. There is the treason."

"I did not say what I am accused of saying," she stated, apparently referring to reports that she urged troops to disobey orders. Miss Fonda said she would produce the texts of her broadcasts in New York on Friday.

Travelling through North

Vietnam, Miss Fonda said, led her to believe "profoundly that dikes are being bombed on purpose." The U.S. government has denied carrying out such tactics, which would endanger the lives of thousands of North Vietnamese.

She said she inspected an area at the town of Namakh 30 miles southeast of Hanoi. The film, shot by a French television cameraman showed a direct hit on an "extremely important" dike at the confluence of five rivers. The bombs had not caused a great deal of direct devastation yet, she said, because the monsoon rains which make the river flood are still some time off.

"You see fields and fields of paddy and then just at that one strategic point you see the bomb crater," she said. Miss Fonda stated there were no military targets or communications links in the area. Another dike area shown in the film was hit, she said, by about 50 bombs on June 12.

None of the prisoners the actress talked with were identified.

The longest-serving prisoner she saw had been in Hanoi since 1967, the most recent since last month. "They assured me they were in good health," she said. "When I asked them if they were brainwashed they all laughed. Without exception, they expressed shame at what they had done."

Asked if she would offer to campaign for McGovern the Democratic presidential nominee, in the United States, she replied, "I plan to campaign for peace."

New Vote Sets GI Pullout

Senate, 50-47,
Puts 4-Month
Limit on Funds

By Spencer Rich
Washington Post Staff Writer

In a new rebuff to President Nixon on his Vietnam policy, the Senate voted 50-47 yesterday to force total U.S. military withdrawal from all of Indochina in four months, provided North Vietnam releases U.S. prisoners of war within that period.

It was the second time in two weeks that the Senate has voted to cut off funds for U.S. military operations in Indochina within four months, subject to prisoner release. The same amendment failed Monday on a 49-45 vote, but the Senate then killed the bill.

Yesterday, however, the amendment, sponsored by Edward Brooke (R-Mass.), who was backed by 10 other Republicans and 39 Democrats, was added to the \$20.6 billion defense procurement authorization bill, and the bill was then passed, 52-42. The measure, unlike foreign aid, is considered absolutely necessary to U.S. security even by most critics of the war.

The bill now goes to conference with the House, which doesn't have a similar antiwar provision. The administration hopes to kill the amendment in conference.

Administration supporters like Bob Dole (R-Kan.) and Armed Services Committee Chairman John Stennis (D-Miss.) argued that by setting a fixed withdrawal date without requiring North Vietnam to agree to a cease-fire as a prior condition, the amendment would cripple the President's efforts to negotiate an honorable peace that could end the war.

South Vietnam with its hope of survival. "It's ridiculous to try to carve into hard law" a specific date for withdrawal and instructions to the President

the purpose of withdrawal, said Stennis.

"That might be a good regulation for a schoolchild, but the idea of putting the President of the United States under restrictions like this—he's not permitted to be Chief Executive... why they'd laugh at him, they'd laugh at him."

"Binding the hands of the President—if we're going to do that, I think we ought to send up the white flag," Stennis thundered.

Brooke, Allen Cranston (D-Calif.), James K. Eastland (R-Miss.) and other supporters of the bill argued that the United States had come, once and for all, to put an end to the war.

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But the bloc favoring the amendment held firm on one procedural roll-call vote after another.

The first vote on the war issue came on an amendment by Sen. George D. Allen (R-Vt.), which, in effect, killed strong Vietnam fund-cutting language being proposed by Cranston and substituted an endorsement of President Nixon's demand for prior release of all U.S. prisoners of war and for an Indochina-wide internationally supervised cease-fire before the United States withdrawal.

This carried 50 to 47, since many middle-of-the-road senators considered the Cranston language simply too tough in its requirements for withdrawal of all U.S. forces from South Vietnam by Oct. 1, without preconditions.

However, the Senate next took up the Brooke amendment—a more moderate amendment than Cranston's, but far stronger than Allen's in the demands it placed on the President to withdraw.

This carried 49 to 47, in the first crucial roll-call, with 11 Republicans favoring it, while 14 Democrats (virtually

all Southerners) opposed it. This vote wiped out the earlier Allen language. On this vote and all the others, Sen. Charles McC. Mathias Jr. (R-Md.) and William B. Spong (D-Vt.) voted to back the Brooke amendment, while Harry Flood Byrd Jr. (Ind.) and J. Glenn Beall (R-Md.) voted to oppose it.

Administration forces then began their series of procedural moves to reverse the 49-47 decision. They lost them all by margins of two and three votes.

Brooke forces then mopped up by tabling (killing) the 35-35 Dole amendment that Congress "assumes responsibility" for the consequences of passage of the Brooke language.

Just before final passage, the Senate accepted, 95 to 2, an amendment by Jack Miller (R-Iowa) adding the requirement that North Vietnam account for U.S. men missing in action, as well as release prisoners of war, as a precondition of U.S. withdrawal from Indochina.

The final vote on the Brooke amendment was 50 to 47. It would have been 49 to 48 had not Sen. James E. Allen (D-Ala.), opposing the amendment, switched his vote to "yes" in order to be eligible to move for reconsideration.

Despite heavy pressure from the administration, none of the Republicans who supported the fund cutoff last week switched their votes.

Funds authorized or appropriated by this or any other act for United States forces with respect to military actions in Indochina may be used only for the purpose of withdrawing all United States ground, naval and air forces from Vietnam, Laos and Cambodia and protecting such forces as they are withdrawn. The withdrawal of all United States forces from Vietnam, Laos and Cambodia shall be carried out within four months after the date of enactment of this act; provided that there is a release within the four-month period of all American prisoners of war held by the government of North Vietnam and all forces allied with such government."

The Senate bill authorizes \$20.6 billion in Fiscal 1973 for weapons procurement. The administration asked \$21.3 billion, and the House voted \$20.6 billion. Total Defense Department appropriations, for which the Nixon administration has requested \$96 billion, will be voted separately. The \$96 billion includes pay, food, equipment and benefits for the armed forces, as well as weapons.

The Senate bill also includes an unlimited authorization for arms credits for Israel through the end of 1973; authority for a one-time recomputation of military retirement pay for persons who retired before Jan. 1, 1972; a requirement that the Defense Department notify all subjects being used for medical experiments of any danger to their health; and a ban on deliberate attempts to start firestorms and alter the weather as methods of warfare.

All these provisions were added by Senate floor amendments and are in the House bill.

Major provisions of the Senate bill provide the full \$444.5 million sought for the B-1 bomber, virtually the full amount sought for the Trident submarine-fired missile system (\$306.4 million in the Senate bill), the full \$299 million sought for the fourth nuclear-powered carrier, \$732 million for the F-14 navy fighter (procurement of 48 is called for), and \$171.4 million for the SAM-D missile. All these provisions are the same as the administration asked and the House approved.

The Senate bill, however, contains only \$361 million for the anti-ballistic missile system and limits it to one site, the one already being built at Grand Forks, N.D. It bars a start on a second ABM site in the Washington area. The House granted the administration's request for \$300 million for both sites.

The Brooke Amendment: A Potential Nixon Boon

For the second time in a week, a working majority of 50 senators, including 11 Republicans, has amended a bill in such a way to require a cutoff of funds for American war activities in Indochina in four months—if Hanoi returns the prisoners. Since Mr. Nixon wants not only to retrieve the prisoners but to bring about a certain political result in South Vietnam, he remains adamantly opposed to this second amendment sponsored by Republican Edward Brooke. Speaking for Mr. Nixon, Senator Stennis argued that the amendment would bind the President's hands. This, of course was exactly what the Senate majority wanted to do. It had evidently lost confidence that the President, if left to pursue his own policy, would soon enough end American participation in the war. The Senate majority was also well aware that its conditional four-month deadline—conditional on prisoner return—is slacker than the now three-month deadline the President set for himself by in effect pledging to end the war by election day.

To be sure, the Brooke amendment is still a long way from becoming law. Last week it was attached to the military aid bill; Mr. Nixon showed his distaste for any war-policy restriction—and, incidentally, his concern for supposedly crucial military aid—by having his Senate lieutenants join with aid's regular foes to kill the bill. But now the Brooke amendment is on the \$20.5 billion military procurement bill, which few think the President would kill or veto. Since procurement goes to a conference of the two armed services committees, both generally respectful of White House war prerogatives, the bill they report out is unlikely to include the restrictive amendment. But would the Senate then accept the report? The Senate has the further option of attaching the Brooke amendment to the foreign aid bill when it comes out of the House; foreign aid is handled by the two foreign affairs committees and even the House committee now wants to use legislation as leverage on the war. Just how the battle over the Brooke amendment will end is uncertain. That it will rage right up to November 7—unless Mr. Nixon has managed to reach a negotiated settlement before then—seems virtually assured.

As we have noted previously, the Brooke amendment, even if enacted into law and implemented by the President, would not of itself and the American role in the war in Vietnam. Any policy mandating the release of prisoners before the end of hostilities assures that the initiative will remain in Hanoi: Hanoi holds the prisoners and also decides whether to let them go. It has been holding them so far we point out, not acting against a bombing halt and total troop withdrawal but as trading bait in its negotiations for a wide political opening for its comrades in Saigon.

Close readers of this page know that we have had some reservations about both the propriety and effectiveness of Congress jumping in, all years of permissive support of White House policy in Vietnam, and issuing legislative orders whose effect would be to undercut President Nixon's own efforts to reach a settlement. Now that the State has gone ahead and taken this leap, however, it seems to us right to acknowledge that the substance of the Brooke amendment does in fact offer an opportunity to end the struggle between the President and the Congress. For its language provides a broader basis than any other in sight on which different branches of the American government and different segments of American opinion can unite on a common route out of the war. The possibility is open now that it has been fully provided to practically everyone but Mr. Nixon and supporters on this matter—that the United States has done all it could reasonably and honorably be expected to do for the cause of South Vietnam.

For a President who campaigned in 1968 on a promise to end the war, who entered the White House with a pledge to bring the Americans back together, and who faces strong opposition to his Vietnam policy in his re-election campaign in 1972, the Brooke amendment or so variation on it would seem to constitute a potential boon. The Congress, as we say, assumes serious political and even moral risks by leveling an election-year war-policy challenge at a President who has a secret negotiation with the enemy in the making. For his part the President must weigh the political and moral risks of his own.

NEW YORK TIMES, 15 AUGUST 72 Pg. 1 Clark Says North Vietnam May Free a Few P.O.W.'s

By WALLACE TURNER

SAN FRANCISCO, Aug. 14—Raymond Clark, a former United States Attorney General, said here today that he thought that a few American prisoners of war would be released soon by North Vietnam.

Mr. Clark's statement was made at a news conference following a two-week visit to North Vietnam that ended Saturday.

"I urged them to release some prisoners, and I say frankly I think they will—few, I don't know when," he said. "But what they tell you and you know I have a little difficulty arguing with it—'we can't release pilots whom pilots are bombing our children'—"

Mr. Clark chose his words carefully when asked whether American military commanders had attempted deliberately to destroy the system of dikes in North Vietnam.

"I saw, damage to dikes, canals and a substantial nature at least six places," he said in the news conference at the St. Francis Hotel here. "At a couple of places, it was evident that it was a massive assault. At the time I saw it, there were no military targets there."

He said also that he recognized that such targets, perhaps antiaircraft batteries, could have been moved away before he saw the dike damage.

In a 40-minute statement and in the 20 minutes of questioning that followed, Mr. Clark repeatedly attacked the bombing on moral grounds. He said he had seen a hospital that was destroyed by bombs between last December, when, he said, it was seen by an American visitor, and the time Mr. Clark saw it.

"We are bombing the hell out of that poor land," he said. "We are hitting hospitals. I can't tell you whether it's deliberate. But to the people who are getting hit, it doesn't make much difference, does it?"

Mr. Clark said that he had a letter from Hanoi's Deputy Premier and Minister of Foreign Affairs, Nguyen Duy Trinh, concerning the release of prisoners. He did not distribute copies of the letter but he read from his own notes of Mr. Trinh's statements during their two-hour and 45-minute interview.

Mr. Clark made the point that the boys were based on the official statements as truth.

Reading from his notes, Mr. Clark quoted Mr. Trinh as having said: "With the agreement on the military and political issues, I will guarantee the collection of all the prisoners."

Another statement was that a settlement must be made on the "Provisional Revolutionary Government's seven points and two additions" before the prisoners issue is resolved.

On July 1, 1971, the Vietnamese proposed a seven-point plan in Paris that provided for a simultaneous exchange of all prisoners and the withdrawal of United States and allied forces from South Vietnam.

Mr. Clark quoted Mr. Trinh as having said that "Hanoi is more interested in the fate of the United States than in the fate of the U.S. prisoners."

Mr. Clark said he had been taken one night to a prisoner of war camp, which he did not name or locate, and permitted to see the rooms of 10 prisoners, and to talk to the prisoners for a long period. He said he had asked that the prisoners be released.

"They've Got the Power" "I talked and pleaded because that's all I could do," he said. "You can't demand. When it comes to the prisoners, they've got the power, don't they? The U.S. haven't done much good yet."

"I've seen a lot of prisons in my life," said Mr. Clark, who as Attorney General had control of Federal prisons in the United States. "These 10 men were unquestionably humanely treated, well treated. Their individual rooms were better and bigger than the rooms in essentially every prison I have ever visited anywhere."

He said the food was ample and that there was a vegetable garden outside. He said that the men, though the prison had been there since 1963, although the men who had been there longest had arrived in the spring of 1971. Mr. Clark said that the men had told him the prison was much the same as others they had been in.

"I believe them," he said. During the news conference Mr. Clark endorsed Senator George McGovern for President. The endorsement came when Mr. Clark was explaining that an editor in Hanoi had told him that "if there were a change of administration, the prisoners would be released on Jan. 29, 1972—Independence Day."

"It was the editor's statement, not his," Mr. Clark said. But in response to a question, he said that he supported Senator McGovern and agreed with the North Vietnamese editor's judgment.

Mr. Clark said that he had not talked with Senator McGovern before going to Vietnam and that "I intend to call him, and tell him that if he wishes I would give him a complete briefing."

In response to the accusation that he had helped contribute to the propaganda broadcast by the Hanoi radio, Mr. Clark said that he had not accepted an invitation to speak on the station.

In reference to his remarks today, he said, "they could use this to broadcast on radio Hanoi." He suggested that some of his news conference statements to journalists in Hanoi might have been broadcast.

He said he believed that as a private citizen he had a right to go to North Vietnam and do what he could try to bring peace and to gain release of the prisoners.

WASHINGTON POST 17 AUG 1972 Pg1 Hanoi Spurns McGovern's POW Plea

By William Greider
Washington Post Staff Writer
SPRINGFIELD, Ill., Aug. 18 — Sen. George McGovern sent a personal emissary to ask the North Vietnamese to release American prisoners of war before the November election, but Hanoi turned down his plea.

McGovern's communication was through Pierre Salinger, press secretary to the late President John F. Kennedy and a McGovern campaign aide. Salinger said today that he met with North Vietnamese officials in Paris twice in the last month, asking about the possibility of an early release of prisoners before the war is over.

Salinger said he also advised the North Vietnamese that McGovern wants a quick settlement to the war, even if that means a Nixon peace agreement which would wipe out the war in Vietnam as a political issue in the fall campaign.

McGovern, campaigning today in Illinois, acknowledged the efforts and said:

"Anything I can possibly do to secure the release of those prisoners, I'm going to do."

His campaign political director, Frank Mankiewicz, said the prisoner return, if successfully engineered, "might have taken the issue out of the campaign—defused it."

Mankiewicz added: "It was worth asking. I don't know how much hope there ever was."

These developments came to light today in a somewhat tangled manner in which McGovern at first seemed to deny any connection with Salinger's conversations in Paris then later in the day acknowledged that he had requested the inquiry.

It began with a United Press International dispatch from Paris which quoted unidentified "friends of the McGovern campaign." The story said Salinger had called on the North Vietnamese delegation to urge a peace settlement with the Nixon administration and to warn them not to delay until after the election.

When reporters confronted McGovern in the lobby of the St. Nicholas Hotel here with questions about that report, McGovern said he gave no such instructions to Salinger.

"I know nothing of any such report," McGovern said. "There's no truth in it at all."

The Democratic presidential candidate recalled that Salinger told him he was traveling to Paris after the Democratic National Convention and said: "He might make some inquiries about the status of negotiations and I told him I would be interested in talking to him when he returned." But McGovern said there had been "no instructions whatsoever."

A few hours later, after a phone conversation with Salinger who was back in New York, McGovern issued this statement "about the trip to Paris—

"At my request he met with members of the North Vietnamese delegation in Paris. The only purpose of the discussion was to determine if any change had occurred which would permit the return of the prisoners prior to the end of hostilities."

"Mr. Salinger found no change in the publicly stated position of Hanoi. Mr. Salinger also made clear that I have repeatedly stated my conviction that the end of the war should not be delayed by a single day because of the American election campaign."

Confronted later again by reporters, McGovern insisted there was no inconsistency in his two public statements.

An Salinger reconstructed the events. McGovern called

him the day after the Democratic convention and asked me if I would make contact with the North Vietnamese delegation on one point only — if there was any chance of releasing prisoners and if there was any change in their position on the prisoners and anything that would induce them to change."

He met with two members of the delegation staff in Paris on July 18 and put the question to them. "They told me they would get answers for them," he said. That was the day before White House foreign policy adviser Henry Kissinger met in Paris with Le Duc Tho of North Vietnam, a meeting which Salinger was told about.

Salinger said that in inquiring about the prisoners he also stated to the Vietnamese "what has been Sen. McGovern's public position—that I desire in end the war, greater than his desire to see the war remain as a political issue, and therefore, if they felt they could make peace, they should not delay."

Two and a half weeks later, the delegation staff called him and they met again on Aug. 9.

They told me the word from Hanoi was that there was no change on the POW's and the prisoners will not be released until hostilities are ended, Salinger said.

NEW YORK TIMES 20 SEPT. 1972 P-8 MILITARY AID BILL REVIVED IN SENATE

WASHINGTON, Sept. 19—The Senate Foreign Relations Committee approved a revised \$1.5-billion military authorization bill today to replace the one that the Senate killed in July.

The funds that the measure would authorize represented a cut of \$700-million in the Nixon Administration's military aid program, and in reporting the bill out, the committee set the stage for another floor battle on foreign aid.

The committee reopened the end-the-war issue by approving an amendment to the bill that would require the withdrawal of all American forces from Indochina in four months, contingent upon the concurrent release of prisoners of war.

Only military aid must be authorized this year, since Congress last year passed a two-year authorization for economic aid. The \$1.5-billion in military aid that the Senate committee's bill would authorize in the fiscal year that began July 1 compares with the \$2.13 in the authorization bill already passed by the House of Representatives.

House Panel Acts Early

Yesterday, the House Appropriations Committee, without waiting for the completion of Congressional action on the authorization of military aid, approved a bill calling for the appropriation of \$4.2-billion for various forms of both economic and military aid. This is nearly \$1-billion less than what the Administration had requested.

The House committee's cuts, however, fell heaviest on economic aid as the panel approved about \$2-billion in military aid, or all but \$150-million of the total sought by the Administration.

The earlier authorization bill, who rejected on the Senate, 46 to 42, by a coalition of liberals opposed to expanded military aid and conservatives opposed to an end-the-war amendment attacked on the Senate floor.

The same forces may threaten

the passage of the revised bill.

To pass a military aid bill, the Administration needs the support of some liberals and moderates who have become increasingly disenchanted with the foreign aid program and in particular with a military aid program, which they contend leads to excessive foreign military commitments.

At the same time, some of these liberals and moderates are not inclined to vote for any military aid bill unless it contains an end-the-war amendment, which the Administration opposes.

In effect, the Senate committee took the military authorization bill as it stood before it was rejected and reduced the military aid to the amounts appropriated last year.

The new bill would authorize \$1.45-billion for direct military aid against \$1.72-billion in the rejected bill. The Administration had asked \$2.15-billion. For military assistance grants, the bill would authorize \$500-million instead of the requested \$750-million. For military supporting assistance, the bill would provide \$550-million; the Administration had asked \$544-million. The bill would authorize \$400-million in military credit sales, against the request of \$527-million.

The bill would also authorize the \$100-million requested by the Administration for refugee relief assistance in Bangladesh.

The committee retained other amendments in the rejected bill that were designed to impose policy restrictions on the Administration.

Thus, the bill would impose a \$275-million ceiling on aid to Cambodia and would cut off aid to Portugal unless the Administration submitted an Azores base agreement to the Senate in the form of a treaty. The bill would also set a \$150-million ceiling on military aid and sales to Latin American countries. The end-the-war amendment was sponsored by a Republican, Senator Edward W. Brooke of Massachusetts.

The Senate also attached the Brooke amendment to a military procurement authorization bill. The amendment was subsequently dropped by a Senate House conference committee.

By Spencer Rich
The Senate in the
the House in a 45-
45 vote yesterday, reversing
a 45-45 vote in the House
on the same
bill.

The Indo-
China proposal from the for-
eign military aid authorization
bill, the Senate approved the
1.25 billion aid measure on a
50-41 roll-call vote.

President Nixon also won a
victory when the Senate
agreed, 56 to 35, to boost the
amount in the bill from \$1.45
billion to the final \$1.82 billion
figure. A substantial portion
of the funds will go for
military economic aid to allies
in Southeast Asia. The measure
must now go to conference
with the House, which
approved an authorization of
\$2.13 billion.

The Indochina fund cutoff
sponsored by Sen. Edward
W. Brooke (R-Mass.)—was by
far the most controversial
provision of the bill. So strong
is the administration's opposi-
tion that at the President's re-
quest, Vice President Agnew
flew back from Texas, where
he was campaigning, to be on
hand as presiding officer so
that he could break a tie vote
and defeat the provision if
it

er, Agnew's vote was
needed, as Democratic
presidential candidate George
McGovern (D-S.D.), Hubert H.
Humphrey (D-Minn.), William
E. Spong (D-Va.) and several
others who have voted for the
fund cutoff in the past were
out campaigning and didn't re-
turn for yesterday's vote.

A few other former sup-
porters either switched positions
or withheld their votes and
gave pairs to absent senators.

Had all the absentees been
present, and had those who
paired voted instead, the fund
cutoff apparently would have
carried, 51 to 48.

Brooke, who has pushed the
fund cutoff through the Sen-
ate twice before only to see it
watered down or defeated at a
later legislative stage, ex-
pressed considerable annoy-
ance with the absence, particu-
larly McGovern's.

The fund provision would
have cut off money for all U.S.
military operations in Indo-
China in four months, pro-
vided North Vietnam returned
U.S. prisoners within that pe-
riod and gave an accounting
of missing in action.

Services Committee
Chairman John Stennis (D-
Miss.) offered the amendment
stripping it from the bill.

Stennis, with strong support
from Minority Leader Hugh
Scott (R-Pa.) who also op-

sored the provision raising the
aid authorization amount, ar-
gued that to set a fixed date
for U.S. withdrawal conditioned
only on release of prisoners
would leave North Vietnam no
incentive to negotiate and
would thereby thwart the Presi-
dent's effort to obtain a settle-
ment that would guarantee the
survival of South Vietnam.

Scott told the Senate that
the President, having removed
more than 500,000 U.S. troops
from Vietnam, leaving only 35,
000 there, is doing an excellent
job of winding down the war
and shouldn't be handcuffed in
his search for a settlement on
U.S. terms.

But Brooke, Alan Cranston
(D-Calif.), Edward M. Kennedy
(D-Mass.), Harold Hughes (D-
Iowa) and others said the cur-
rent course seems to presage
an endless bombing war de-
signed to bring North Vietnam
to heel while negotiations
dragged on forever. They said
the United States could gain
no advantage whatever from
continued participation and
should get out.

Predictions that North Viet-
nam would massacre 100,000
opponents should it ever gain
control in the south are a
"hoax" based on dubious prop-
hecies, Kennedy charged. In
any event, he said, the fight-
ing and massive U.S. bombing
in the last two years has al-
ready killed 400,000 North and
South Vietnamese civilians
and combatants from various
countries.

In the key vote yesterday,
Sens. J. Glenn Beall (R-Md.)
and Harry Flood Byrd Jr.
(Ind.-Va.) voted to kill the In-

dochina fund cutoff, while
Sen. Charles McC. Mathias Jr.
(R-Md.) voted to keep it alive.
Spong was absent.

Mathias was one of only
seven Republicans who joined
35 Democrats in voting to re-
tain the cutoff. Thirty-three
Republicans and a dozen Dem-
ocrats (mainly Southerners)
voted to kill the cutoff.

The only outright switch by
previous supporters was that
of Clinton P. Anderson (D-
N.J.), who voted with the ad-
ministration. But previous
supporters Marlow W. Cook
(R-Ky.) and Ted Stevens (R-
Alaska) both gave pairs to ab-
sent senators, and McGovern,
Spong, Humphrey, Lee Met-
calf (D-Mont.), Harrison A.
Williams (D-N.J.) and Robert
L. Stafford (R-Vt.) all were ab-
sent. They had voted for the
cutoff on Aug. 2.

In yesterday's vote the ad-
ministration lost two senators
who had backed it Aug. 2, as
Thomas J. McIntyre (D-N.H.)
and Howard Cannon (D-Nev.)
voted for the fund cutoff. Sev-
eral other backers also were
absent, but it picked up An-
derson, James E. Allen (D-
Ala.) who didn't vote last time,
and Sen. Elaine Edwards (D-
La.) who succeeded the late
Allen J. Ellender.

Brooke, angry at McGov-
ern's absence, said, "The war
is McGovern's chief issue, he
had a chance to be effective
but he was out talking about
it." Cranston, responding
later, said, "If McGovern is
elected President the war will
end anyway."

McGovern was advised the

night before the vote that the
administration probably would
win because of absenteeism by
others and a decision by some
former GOP backers of the cu-
toff to withhold their votes,
and therefore was told he
wasn't required to come back
because his vote probably
wouldn't make a difference.

On final passage, the ad-
ministration had the support
of four Republicans who had
voted against the aid bill when
it was defeated in August:
Sens. Norris H. Cotton (N.H.),
Edward J. Gurney (Iowa), Clif-
ford Hansen (Wyo.) and Milton
R. Young (N.D.).

BALTIMORE SUN 3 OCT. 1972 P-1 Senate bars move to cut bomb funds

By ALBERT SENLSTEDT, JR.
Washington Bureau of The Sun

Washington—The Senate ap-
proved a record \$74.6 billion
defense appropriations bill last
night after emphatically reject-
ing an amendment to eliminate
money for the American bomb-
ing of Indochina.

However, the Senate also
agreed by voice vote to an
amendment sponsored by Sen-
ator Charles McC. Mathias Jr.
(R-Md.) that restated the
language of a 1971 anti-war
rider declaring it the "policy
of this country to end military
operations in Indochina "at the
earliest practicable date."

The 1971 amendment, the only
one agreed upon by both houses
of Congress, urged the Presi-
dent to set a final date for troop
withdrawals contingent on the
release of American prisoners
of war. President Nixon said
later that he was not bound by
the policy.

The vote against cutting off
money for bombing in South-
east Asia was 55 to 25, and it
marked the second time within
a week that the Senate, far
more dovish than the House
in its Vietnam voting record,
refused to accept an amendment
aimed at limiting United States
military operations in Indo-
China.

The vote on final passage of
the defense appropriations bill
was 70 to 8.

The appropriation, already
approved by the House, was
\$4.9 billion less than the ad-
ministration had requested but
still contained funds for sev-
eral items that the Defense
Department had given high
priority.

There was \$285 million for a
new nuclear aircraft carrier;
\$360 million for accelerated de-
velopment of the advanced Tri-
dent submarine program; \$732
million for the Navy's F-14
fighter, and \$444 million for
development of the B-1
bomber, successor to the aging
B-52.

Senator William Proxmire
(D-Wis.), who sponsored the
anti-war amendment, said his
rider would save at least \$2
billion, but he lost the support
of some colleagues who nor-
mally back legislation to end
American military operations
in Indochina. They expressed

the fear that a limitation on
bombing might expose the re-
maining Americans there to
attacks that could not be re-
pulsed without close air sup-
port.

Even Senator Edward W.
Brooke (R-Mass.), the author
of the strongest anti-war
amendment ever accepted by
the Senate, voted against the
Proxmire proposal.

Last Tuesday, the Senate
narrowly rejected, 45 to 42, an
amendment sponsored by Mr.
Brooke that would have cut off
funds for the war and would
have set a deadline for the
withdrawal of all Americans
from Indochina. The Brooke
proposal had been approved by
the Senate on two previous
occasions.

The Proxmire amendment
was vehemently opposed by
Senator Hugh Scott (R-Pa.),
the minority leader. Mr. Scott
excoriated Senate doves—
whom he referred to sarcasti-
cally as "noble Romans"—for
not also condemning Commu-
nist artillery attacks against
South Vietnamese cities.

Only four Republicans, in-
cluding Senator Mathias, sup-
ported Senator Proxmire's
amendment. Senator J. Glenn
Beall, Jr. (R-Md.) voted
against it.

Absent again yesterday was
Senator George S. McGovern
(D-S.D.), the Democratic
presidential nominee, who has
made opposition to the war one
of his principal campaign is-
sues. Mr. McGovern also failed
to answer the roll-call last
Tuesday during the far closer
vote on the Brooke
amendment.

Senator John Sherman
Cooper (R-Ky.), another leg-
islator with a long anti-war
voting record, agreed with
Senator Scott that there had
been a silence on the part of
Vietnam war critics about the
North's attacks. But he said he
could not bring himself, "as a
human being," to vote against
the Proxmire amendment.

As the 80-minute debate on
the amendment drew to a
close, Senator Mike Mansfield
(D-Mont.), the majority
leader, rose in support of the
Proxmire rider and said the
United States has been partici-
pating for a decade in what is
basically a civil war in
Vietnam.

Mr. Mansfield listed the toll
in terms of human life, such
as 56,000 dead Americans, and
in cost—some \$130 billion,
plus what he called the divi-
sion that the war has caused
at home.

"I don't know what's going
to wake this country up," he
said.

Offering a Plan for Peace in Indochina

Following is the transcript of Senator George McGovern's taped television address to the nation.

Right, I ask you to think carefully about an issue that has troubled me more than any other for the last nine years—the war in Vietnam.

On Sept. 23, 1963, I warned that our deepening involvement in the affairs of the Vietnamese people was "a policy of moral decadence and political defeat."

Under three separate Presidents—two of them Democrats and one of them a Republican—I have opposed this war. During these years, Mr. Nixon has supported the war. This, I think, is the sharpest and most important difference between Mr. Nixon and me in the 1972 Presidential campaign.

Mr. Nixon has described the Vietnam war as our finest hour. I regard it as the oddest chapter in our national history. Our problem with this terrible war does not stem from the lack of bravery or skill on the part of our fighting men. Indeed, no better American army has ever been sent abroad.

The problem is that we asked our armed forces the impossible—to save a political regime in Saigon that doesn't even have the respect of its own people. I've been to Vietnam more than once, talking to our G.I.s. They've told me in countless conversations of the frustrating and impossible nature of this assignment.

Before the 1968 election, the Republican candidate, Mr. Nixon, told you that he had a secret plan to end the war. He refused to discuss the details, but he asked your support in the election, and he offered peace in return.

That promise has been broken, and the destruction in Southeast Asia has increased.

Half a Million Involved

The war goes on for our sons who are still ordered into battle. It's true that men have been withdrawn from Vietnam, but half a million American fighting men remain in the Pacific, Thailand and Guam are still carrying this war to Vietnam.

Tonight, as I speak to you, some of these men may die. Any per cent of all the men lost in Vietnam in the last four years died under the present Administration.

Since January of 1969, 20,000 young Americans have

come home—not in glory, to the cheers of a grateful country—but in death. In the briefs, tears of their families. The secret plan, the secret plan for peace, will forever remain a secret to them.

The war goes on also for our prisoners in North Vietnam. Tonight, on the other side of the world, they sit and think of us—of their homes, their families, of children who are growing up without fathers, of a country they may never see again.

And in the last four years, 550 more Americans have been taken captive or listed as missing in action. More than 100 of them in the last six months. And if anyone says that the promise to end the war has been kept, let him tell that to the families of the brave men who were away in the calls of Hanoi.

Now Mr. Nixon says we must bomb and fight to free our prisoners. But just the reverse is true. We must end the bombing and the fighting. We must end the fighting. We must end the fighting. We must end the fighting.

The war continues.

The war also goes on for the millions of Americans like you who bear its cost. Every single week this war claims \$250-million of your taxes. Every week it inflates the cost of everything you buy.

Each week it costs \$250-million that we need to employ men to rebuild our cities, to fight crime and drugs, to strengthen our schools, and to assist our sick and elderly.

Since he came to the Presidency, Mr. Nixon has spent \$60-billion of your money on this war, \$60-billion of your taxes to kill human beings in Asia instead of protecting and improving human life in America. \$60-billion in the last four years—not for a cause, but for a mistake—not to serve our ideals, but to save the face of our policy-makers.

And the war goes on also for the people of Indochina. Indeed, they are literally being crushed under the weight of the heaviest aerial bombardment the world has ever known.

The bombing of Indochina has doubled under the present administration, and while General Thieu is secure in his palace, six million of his fellow Vietnamese are victims—people dead, maimed or driven from their homes.

Most of these people are

not enemies, but innocent. Our bombs bring them not freedom, but terror. Bombing does not save their land. It destroys it.

The reality of this war is seen in the newspaper photo of the little South Vietnamese girl, Kim, fleeing in terror from her bombed-out school. She has torn off her flaming clothes and she is running naked into the lens of that camera.

That picture ought to break the heart of every American. Now can we rest with the grim knowledge that the burning napalm that splashed over little Kim and countless thousands of other children was dropped in the name of America?

Now, there are those who say that you will accept this because the toll of suffering now includes more Asians and fewer Americans. But surely, conscience says to each of us that a wrong war is not made right because the color of the bodies has changed. We are all created in the image of God.

Differences in War

As a bomber pilot in World War II, like millions of you, I did what had to be done. Our nation took up arms and laid down lives because tyranny threatened all that we held precious.

I loved America enough to offer my life in war 30 years ago. And for nine years, I have loved this country enough to risk my political life to call us home from a war in Asia that does not serve the interests and the ideals of the American nation.

What, after all, is our purpose in Southeast Asia?

Now, we used to say that we fought in Vietnam to stop Communist China or to stop Communist Russia. But these nations are now quarreling among themselves, and Mr. Nixon's public opinion ratings have gone up after he was wined and dined in the Communist capitals of Peking and Moscow.

How can we really expect that it is good to accommodate ourselves to a billion Russian and Chinese Communists—but that we must somehow fight to the bitter end against a tiny band of peasant guerrillas in the jungles of little Vietnam?

Choices of Lives or Face

Incredible as it seems, when all is said and done, our purpose in Vietnam now comes down to this—our policy-makers want to save face and they want to save the Saigon regime of General Thieu.

Now, that is a fundamental

difference between President Nixon and me on the issue of Vietnam. It is a choice, after all, between saving face or saving lives. It is a choice between four more years of war, or four years of peace.

The Nixon position is that the Thieu regime represents self-determination for the people of South Vietnam. Let me tell you what I think his regime represents.

I think our support for General Thieu actually denies the people of South Vietnam the right to choose their own government. The Saigon regime, a former president of Rotary International, who had the courage to run against General Thieu four years ago, was sent a jail for five years.

Last year, General Thieu issued a decree to force all my answer is—yes, the other candidates out of the race. This year, he abolished all the local elections so he could extend his dictatorship to every village in South Vietnam.

General Thieu has closed newspapers, simply for printing the truth. He has presided over the execution of 40,000 people without trial on the mere suspicion that they did not support his policies.

The Thieu regime stands for the theft of billions of dollars of our aid, stolen by powerful officials to enrich themselves while their countrymen are in the grip of starvation and disease. And every G.I. who has served in Vietnam knows that that's the truth.

Shipwrecks of Heracles

Corrupt Vietnamese officials have enriched themselves pitting bribes into the veins of a hundred thousand of our G.I.s. That same poison heroin from Southeast Asia is now being shipped into our cities, our suburbs, our streets and even into the schools of America. And every Vietnam G.I. knows that it is true.

This corrupt dictatorship that our precious young men and our tax dollars are supporting cannot be talked down by American blood. Instead, our own most precious values are corrupted by the very Government we fight to defend.

Now, Mr. Nixon would continue the war to preserve General Thieu's power. On that, he and I disagree. I say that, he and I disagree. I say that, he and I disagree. I say that, he and I disagree.

General Thieu is not worth one more American dollar, one more American prisoner, one more drop of American blood. Mr. Nixon and I also disagree on how to find peace

He has chosen what he calls "decisive military action" to end the fighting. Despite all the highly publicized "secret" meetings with the other side, he has persisted in the belief that we can find peace only in a wider war. The escalations of 1965 and 1967 were also "decisive military action" and they did not end the war. They only increased the killing and increased the costs.

Cambodia and Halphong

Mr. Nixon's invasion of Cambodia, made without the approval of Congress as required by our Constitution, that was a "decisive military action," but it did not end the war. It only brought the war to more people who had been living in peace and it brought Communist rule to two-thirds of that previously neutral country.

The mining of North Vietnamese harbors was a decisive military action, but it did not end the war. The supplies still flow into the south, and our adversary is reported by our own observers to be as strong as ever.

For nearly 30 years, the people of Vietnam have been at war. For nearly 30 years, the Japanese, the French, the Americans have tried "decisive military action" to win a satisfactory peace. And for 30 years, each, in turn has failed.

Now, the answer to failure is not more of the same. And yet I fear continued war is what the Nixon Administration has in store if they stay in power.

Secretary of Defense Laird recently admitted to a Congressional committee that the fighting could continue far into the future under present policy.

Four years ago last night, on Oct. 9, 1964, Mr. Nixon, as a candidate for President, said to a crowd in California, and I quote:

"Those who have had a chance for four years and could not produce peace should not be given another chance." Now, Mr. Nixon has had his chance. He could not produce peace in four years. And we have every indication that he cannot produce peace in eight years.

So, I ask the American people—shall we break free at last from General Thieu? Shall we forget about saving the soul of our nation? Shall we demonstrate that we are determined to stop the killing and to stand for peace?

Let me now set forth the specific steps that I would take as President to carry out that determination.

Immediately after taking my oath as President, if the war has not ended by then, I would issue a national security directive to the Secretary of Defense, to the Joint

1. Immediately stop all bombing and acts of force in all parts of Indochina.

2. Immediately terminate any shipments of military supplies that continue the war.

3. Immediately begin the orderly withdrawal of all American forces from Vietnam, Laos and Cambodia, along with all salvageable American military equipment. And we will assign whatever transportation is required to complete that process and to complete it within 90 days—a time period that I've been told by competent military authority is well within our capability.

Secondly, I would issue the negotiators in Paris:

4. Notify the representatives of the other side that we have taken these steps to end the hostilities, and that we now expect that they will accept their obligation under their own seven-point proposal of 1971 to return all prisoners of war and to account for all missing in action.

We will expect that process to be completed within 90 days to coincide with our complete withdrawal from the war.

5. We would further notify all parties that the United States will no longer interfere in the internal politics of Vietnam, and that we will allow the Vietnamese people to work out their own settlement. The United States is prepared to cooperate to see that any settlement, including a coalition government, gains international recognition.

6. Trip for Vice President

Thirdly, I would send the Vice President to Hanoi to speed the arrangements for the return of our prisoners and an accounting of the missing.

I would also instruct our diplomats in Laos and Cambodia in order to secure release of prisoners held in those countries, and an accounting of missing in action, including American civilian newsmen now missing in Cambodia. There are also known prisoners in Laos, and nearly 300 missing. No effort has been made to secure their release.

Fourth, after all of our prisoners have been returned, and we have received a satisfactory accounting for any missing men, I would order the Secretary of Defense and the Joint Chiefs to close our bases in Thailand, to bring home any troops and equipment still there, and to realign elsewhere any ships still stationed in the water adjacent to Indochina.

Fifth, as the political solution in Vietnam is worked out by the Vietnamese themselves, we should join with other countries in repairing

damage to take immediate action on an expanded program for our veterans. I think it's simply a disgrace that our Government is able to find these young men to send them off to war, but somehow, we look the other way when they come back in need of an education or decent medical treatment, or a decent job.

Now, like many other veterans of World War II, I received a four-year education under a generous G.I. Bill of Rights. I think Vietnam veterans need that help more than those of us who fought a generation ago because we came back with the welcome of a nation that knew we had fought and won a necessary war.

The Vietnam veterans come back to a country that largely believes this war was a mistake. So, we ought to liberally put the arms of this nation around these young men and guarantee them either a good job or a fully funded higher education.

Months ago, I sponsored in the Senate a Vietnam veterans bill of rights that would do precisely that.

Finally, when the war has ended, when our troops and prisoners are home, and when we have provided for the veterans of Vietnam, we must then consider the young men who chose jail or exile because they could not in conscience fight in this war.

So, following the example of every President, I would give these young men the opportunity to come home. Personally, if I were in their shoes, I would be in their shoes for two years of public service on substance pay simply to demonstrate that my objection was not to serving the nation, but to participating in a war I thought was morally wrong.

We are not a vindictive or mean-spirited people. And we must act as Lincoln told us—"With malice toward none and charity for all." We must bind up the wounds of this nation, and we must bring all of our sons back.

In that same spirit, we must oppose any so-called war crimes trials to fix the blame for the past on any citizen or any group of citizens. Vietnam has been a terrible experience for all of us, on every side of this issue. And this is not the time for recrimination. It is the time for reconciliation.

So, this is what I would do to bring America home from a hated war, and it is a program that will work. The people of France were once trapped in Vietnam, even as we are. But in 1954, they chose a new President, Pierre Mendes-France, whose highest commitment was to achieve peace in Indochina. His program was very similar to mine. And within just

returned. Now, I ask you to remember that I speak to you as one who has publicly opposed this war for nine years. I ask you to remember that my opponent has supported American military intervention in Vietnam ever since 1954. I ask you to recognize that every detail of my position is fully out in the open. It is a public plan—not a secret plan.

Often during this last tortured decade, I've reflected on a question from the Scriptures: "Which of us, if his son asked him for bread, would give him a stone?"

Our sons have asked for jobs—and we've sent them to an Asian jungle. Our sons have asked for an education—and we've taught them how to kill. Our sons have asked for a full measure of time—and 50,000 of them have been lost before their time.

Retrieving of Faith

So, let us seize the chance to lift from our sons and our nation the terror of this war, and know the blessings of peace. And then, we can restore our sense of purpose and our character as a great nation.

This is not just a question of material wealth—although the billions which would otherwise be lost in Southeast Asia could then be used to secure a better life for our own people. But more important for America, there will be a special healing in the wings of peace. It will be a healing of our doubts and a rekindling of our faith.

In this great and good land, and in our own capacity to make it so.

On the night when the last American soldier from Vietnam has landed in San Francisco, there will be a new birth of confidence and hope for all of us. On that night, we will know that once free of the waste of this war, we can begin the rebuilding of our own land—a task that can provide a fulfilling job for every man and woman in America, who is able to work.

On that night, America can begin to be America again. It can be the America that we learned to love in the days of our youth—a country that once again stands as a winners to the world for what is noble and just in human affairs.

This is the choice of a century. But it is also the same choice that human beings have faced from the very beginning. So, let us heed the ancient words: "I have set before you life and death, blessing and cursing. Therefore, choose life. That thou and thy seed may live."

Thank you. God bless you.

McGovern's Plan for Withdrawal

Sen. George S. McGovern's television address on the war in Vietnam was constructive and useful. He spelled out a practical program for the withdrawal of American forces, for terminating American military action. And, perhaps more important, he dealt realistically with the way America must accept this failure without losing confidence in the nation's principles.

We are uneasy about some of the details, notably the question of support of South Vietnam following an American withdrawal. McGovern has suggested (1) the immediate termination of "any shipments of military supplies that continue the war" and (2) removal from South Vietnam within 90 days of "all salvageable American military equipment."

Presumably he is not suggesting that the army of South Vietnam be disbanded. But he seems to be suggesting that South Vietnam be left defenseless. It seems to us that this question is more appropriate to negotiation. For McGovern has left nothing as an incentive for China and the Soviet Union to halt their arms flow to North Vietnam.

We think McGovern is right in refusing to make the prisoner question an obstacle to American withdrawal from South Vietnam. In practical terms, there is little the United States can do to force this issue. The potential for negotiating release of the prisoners is being explored in Paris. McGovern has proposed that only the withdrawal of American forces off shore and in Thailand

would be contingent on settlement of the prisoner question.

The most useful contribution McGovern has made in the speech is the realization with which he has faced the failure of the American intervention. This is not new for him. But it is important for the nation to face the facts and not be diverted by those who insist on a peace formula contrived to justify what the United States has done. He spoke with compassion that equated the deaths of Vietnamese with those of Americans. He spoke with welcome fervor of the ideals of the nation, "the America that we learned to love in the days of our youth, a country that once again stands as a witness to the world for what is noble and just in human affairs."

But he also spoke against the backdrop of peace talks proceeding in Paris with unprecedented intensity, peace talks that could bring a cease-fire before election day. They are peace talks that have failed in the past out of boundless suspicion and distrust, not for lack of generosity in terms. But they are peace talks that have been permitted for too long to justify a perpetuation of the American intervention.

If the peace talks fail again to end the killing, Sen. McGovern has at least shown that there is another way to end the American part in the killing. So his proposals deserve a central place in the debate of this campaign.

The Great Peace Charade

"Charade: a parlor game in which the players are typically divided into teams, members of which take turns in acting out in pantomime a word or phrase, often syllable by syllable, which members of their own team must guess."—The Random House Dictionary of the English Language.

As Dr. Henry Kissinger tells it, the North Vietnamese have engaged in procedures in Paris that "can only mock the hopes of humanity" and so the President has decided that "we could not engage in a charade with the American people." So the talks have been suspended and the bombing of the North above the 20th parallel has been resumed, presumably to knock some sense into the heads of the men in Hanoi. Well, we do not doubt from Dr. Kissinger's account that the North Vietnamese are up to some dark and dubious bargaining tricks; on the contrary we would be surprised if they weren't. And we are astonished that the President's chief Vietnam negotiator, who is not exactly new to dealing with Communist negotiators, seems so surprised that the North Vietnamese are not behaving like perfect gentlemen. The tactic of suddenly reintroducing new and hard demands of renegotiating tentative past agreements in advance of an across-the-board settlement, of seeking to squeeze out last minute concessions and to undermine broadly-stated principles—all this is familiar stuff, reminiscent of almost all of the classic confrontations with the Russians and others across countless bargaining tables over the years.

Nor do we doubt that the proposals that the Communists presented to us in the last few days of the talks last week would in fact make a shambles of a cease-fire, and as Dr. Kissinger argues, give North Vietnamese operatives a license to spread across the countryside and enter every village in the South as members of inspection teams ostensibly charged with keeping the peace. The President and his negotiator were probably well advised under the circumstances not to accept terms which would have given formal endorsement to a peace plan which would deny the Thieu government or any other independent regime in Saigon a reasonable chance to work out its own destiny.

But not having ourselves introduced the word "charade" into the conversation, we feel free to call attention to its dictionary definition: it is a game "in which the players are typically divided into teams"—that is to say, it takes two teams to play. And it is our reluctant conclusion, that Mr. Nixon and Dr. Kissinger have made their own considerable contribution to this particular charade. The word they have been trying to get across to their team members, which is to say, the American public, is "peace"—as in "peace is at hand." And it is important to remember that the critical piece of pantomime, if you will, was played out on television on the eve of the national election, with the most careful calculation, with what had to be enormous political effect. Everything we were told by Dr. Kissinger on October 26th pointed in one clear direction: a settlement was within handy reach, a matter of a few days and a little good will; the American role in the war was just about over; the President

had for all practical purposes fulfilled his 1963 campaign pledge; renewed in 1969, to "end the war" in Vietnam.

Now the very least that can be said, on the basis of Dr. Kissinger's latest progress report on the war, last Saturday, is that he and the President have been taken for a long hard ride by the North Vietnamese; in short, they have been had, by Dr. Kissinger's own admission, and so have all of us by indirection, because nobody is any longer talking about peace being at hand. Rather, we are being told that every time we reach out for it, Hanoi's bargainers snatch it from our grasp.

We are still, of course, getting some of the same old pantomime: "great progress has been made... we have an agreement that is 99 per cent completed"... although Dr. Kissinger concedes that the remaining one per cent is "a fundamental point." We do not know, because nobody's saying what this last difficulty is. But our own interpretation of Dr. Kissinger's analyses suggests that what remains to be decided, while it may turn on such specifics as the machinery of cease-fire enforcement, is in fact nothing less than the political future of South Vietnam. That is to say, what remains to be settled is what the war has been fought over for several decades.

This, in our view, is a large part of what gives the talks the character of a charade. For as they have been presented to us by the Nixon administration, the talks are supposed to produce "peace"; they are supposed to reconcile the diametrically opposed objectives of North and South Vietnam in a way that will satisfy the interests of both sides and justify hundreds of thousands of deaths and endless expenditures. And this, in our view, cannot be done. As we have argued, there is no conceivable settlement short of an unwinnable victory in conventional terms that will not impose on both sides a risk of losing almost everything each has been fighting for while simultaneously granting both sides some reasonable opportunity of achieving through a settlement and a cease fire what they have been unable to achieve by force of arms. It is nonsense to suppose, after an end to the fighting as it has been waged the past ten years, that the struggle will not continue in other, subtler forms—to suppose that Hanoi has abandoned its objective because of the bombing and because of the big power diplomacy conducted by Mr. Nixon and Dr. Kissinger with the Russians and the Chinese. The performance of the North Vietnamese negotiators late last week, you would think, offers conclusive proof of this.

And yet, the President gives no evidence of being prepared to accept this harsh reality. He continues—mostly through his spokesmen these days—to hold out this bright promise of enduring peace, when the most he can hope to achieve is an American disengagement from the conflict on terms which will bring back our prisoners and leave the South Vietnamese a reasonable chance of survival by their own efforts and out of their own will. This is the risk Mr. Nixon will not face up to. And that, in turn, is why it will take more than an end to Hanoi's pantomime to put a stop to the Great Peace Charade.

LOS ANGELES TIMES 28 December 1972 (1 Jan)

Beyond All Reason

There in his splendid isolation sits the President, consulting with few, explaining to none, directing against a small Asian country a rain of death and terror that to the whole world makes the United States of America appear a barbarian gone mad.

No hope of marginal advantage in further negotiations with the North Vietnamese can justify such terrible retribution for the breakdown in negotiations. No hope of slight improvement in the fortunes of the South Vietnamese government can justify the blackening of our good name, the searing of our self-respect, that this murderous bombing inflicts upon this nation. No presidential anger at the slipperiness of the North Vietnamese can justify the damage done by this massive assault to the people's confidence in the Presidency and in this President.

The President is trying to obtain the unobtainable. He is trying to secure through negotiations a guarantee for the future of South Vietnam that a decade of heavy American fighting has not been able to obtain.

It cannot be done. The United States has for a decade prevented the collapse of South Vietnam. The United States has for a decade poured military aid into South Vietnam to enable it to prevent its own collapse. The one thing the United States has not been able to do, because it cannot, is to breathe into the South Vietnamese that sense of nationhood, that fiber of the will, that will in the end make the difference between an independent South Vietnam and a South Vietnam influenced or controlled by North Vietnam.

There are no guarantees in Vietnam. There are only possibilities; at best, probabilities. A negotiat-

ed settlement that would bring peace to all Indochina has always been the preferred resolution of the war, even though no one has ever thought that a negotiated peace would ever be anything but uneasy and inconclusive, would ever be much more than a pause in the long struggle over the future of Indochina. But at least a negotiated settlement would bring about an end to the killing that has devastated the peninsula for a generation.

That kind of settlement slipped from our grasp in October, in large part, apparently, because the President believed that the guarantees for South Vietnam were too weak, and the threats to South Vietnam too great.

Now the President, once again, is trying to bring about the solution he desires by the use of enormous military force, by an aerial bombardment more fearful than any the world has ever seen. This in the face of all the evidence in this war and others that the bombs will not achieve the ends sought. This in the face of the deaths of yet more American airmen, in the face of the taking of yet more of those very prisoners whose release is one of the few legitimate aims the United States has left in the war.

Of all the errors made in the war, of all the confusions of illusion and reality, of all the willful uses of arbitrary power, this is one of the most shocking, because the means used are so grossly disproportionate to the ends sought. If a negotiated settlement is still possible, then let us quit the bombing and find out; let us be willing to take the risks for peace necessary to end American involvement and bring the American prisoners home. If a negotiated settlement is not possible, then let us quit Indochina, with the reasonable expectation that the release of the prisoners will follow.

APPENDIX B

B-1972 Congressional

APPENDIX B

VIETNAM 1972: SAMPLING OF CONGRESSIONAL ACTIONS

- February 2, 1972 Senator Muskie offered a two-point peace plan for Indochina. It would:
 --set a date for the withdrawal of all U.S. troops in return for the release of American POWs and the safety of American forces as they withdraw, and
 --urge the South Vietnamese Government to seek a political accommodation with the Communists or be deprived of U.S. military support after U.S. forces withdraw.
- February 9, 1972 Senate Foreign Relations Committee by unanimous vote reported a war powers bill sponsored by Javits/Stennis, a synthesis of war powers bills introduced in 1971. Debate on war powers legislation began March 29.
- March 23, 1972 Seven Democratic Senators and 34 House members announced the introduction of end-the-war legislation. Their bill would:
 --require total withdrawal of all U.S. forces in Indochina and a cessation of all U.S. air and shelling operations in Indochina within 30 days in exchange for an agreement by North Vietnam to release all American POWs;
 --failing such an agreement, the withdrawal deadline would be extended 30 days;
 --after that time, unless Congress cancelled the measure, withdrawal would proceed with or without a POW agreement.
- March 29, 1972 Senate began debate on war powers legislation. As reported by the Senate Foreign Relations Committee, the bill provided that the President could take emergency military action - in the absence of a Congressional declaration of war - only to repel or forestall an attack on the United States or on U.S. forces stationed abroad, or to protect U.S. citizens or nationals in danger in a foreign country or pursuant to some specific statutory authorization, short of a declaration of war, confined to some particular area. When the President took such emergency action, he had to terminate it within 30 days unless Congress specifically authorized

April 11, 1972

it to continue.

Senate rejected a Hruska motion to send the war powers bill back to the Committee on the Judiciary for further study. The vote was 26-60.

Senate however rejected a Gravel amendment to the war powers bill to apply the bill's provisions to the Indochina war, unless Congress declared war on North Vietnam within 15 days. The vote was 11-74.

Senate adopted a Javits motion to table (kill) a second Gravel amendment to the war powers bill to delete the provision exempting ongoing hostilities and substitute a declaration of war on North Vietnam. The vote was 78-7.

Senate rejected a Fulbright amendment to the war powers bill specifying that the bill, while exempting the Vietnam War, did not give the President any authority to continue hostilities in Southeast Asia. The vote was 28-56.

April 13, 1972

Senate by a vote of 68 to 16 passed the war powers legislation, along lines reported by the SFRC with the addition of perfecting amendments proposed by Sen. Javits. No conference was requested with the House which had passed much milder war powers measures in 1970 and 1971. The House version required only that the President report to Congress whenever he acted without prior Congressional authorization to commit US forces to hostilities, to send combat-equipped troops overseas or to enlarge forces already stationed abroad. It urged but did not require the President to consult Congress before taking such action.

The Senate, having voted its legislation on April 13, the Senate Foreign Relations Committee on April 20 reported adversely on the House version and sent it to the Senate floor with a recommendation it not be passed. It was hoped that when it came to the Senate floor, the Senate passed version would be offered and adopted as a substitute, followed by a conference. However, the Senate took no action on the House resolution.

April 17-19, 1972

Senate Foreign Relations Committee held hearings on the Administration's foreign military aid requests. Secretary of State Rogers and subsequently Secretary of Defense Laird testified at the opening sessions which focused almost exclusively on U.S. resumption of full-

scale bombing of North Vietnam.

Following Secretary Rogers' testimony, the Senate Foreign Relations Committee voted 9-1 in favor of a Church-Case end-the-war amendment to the State authorization bill cutting off all funds for U.S. ground, naval or air operations in or over Vietnam after December 31, 1972, conditional upon the release of American POWs and an accounting of American MIAs.

Senator Muskie has introduced a resolution calling for the immediate end to all American military action against North Vietnam.

April 19, 1972

House Democratic Caucus considered (and narrowly rejected by a vote of 97-105) a resolution sponsored by Rep. O'Neill calling upon Democrats to support legislation to:

--cut off all funds for U.S. military operations in or over North and South Vietnam, Cambodia and Laos 30 days after enactment;

--cut off funds for air and naval bombardment of North Vietnam, Laos, Cambodia and Thailand immediately;

--cut off funds for bombing in South Vietnam immediately unless the President determines it is necessary to protect withdrawing American forces;

--provide for a 30 day extension of the military operations deadline if American POWs have not been released.

At the request of Senator Cranston, the Senate set aside five hours of debate on American bombing policies in Indochina. Senators engaged in the debate spoke on both sides of the issue.

April 20, 1972

House Democratic Caucus adopted an O'Neill resolution ordering the House Foreign Affairs Committee to produce, within 30 days, legislation setting some deadline for total U.S. withdrawal from the war subject to the release of American POWs and an accounting of MIAs. The vote was 135-66.

House Democratic Caucus adopted a Gibbons amendment to the O'Neill resolution adding a condemnation of the North Vietnamese invasion of South Vietnam. The vote was 186-16.

House Democratic Caucus adopted the O'Neill resolution with the Gibbons amendment by a vote of 144-58.

House Democratic Caucus rejected a Montgomery amendment to the resolution condemning the Soviet Union for sending weapons to North Vietnam. The vote was 51-149.

April 26, 1972

House tabled an Abzug resolution of inquiry to require the Administration to supply Congress with sensitive information on:

--current U.S. troop strengths in Indochina and all movements of men and supplies to Southeast Asia since March 15, 1972;

--detailed bombing statistics regarding North and South Vietnam and American casualty figures for the first ten days of March and the first ten days of April 1972;

--bombing statistics regarding Cambodia and Laos from January 1972;

--Administration compliance with the Mansfield amendment (passed in 1971) stating it was U.S. policy to withdraw totally from Indochina by a specified date, contingent upon the release of American POWs. The vote was 113-270.

May 2, 1972

House Armed Services Committee rejected a Nedzi amendment to the military procurement bill calling for total U.S. military withdrawal from Indochina by September 1, 1972, contingent upon the release of American POWs. The vote was 5-32.

House Armed Services Committee maintained a point of order against a Leggett amendment to the military procurement bill to bar the reintroduction of American ground troops or the use of nuclear weapons to counter the current Communist offensive in South Vietnam.

May 9, 1972

Senate Democratic Caucus adopted a resolution "disapproving the escalation of the war" reflected in the President's decision to mine North Vietnam's harbors and continue intensified bombing of that country. The vote was 29-14.

May 10, 1972

Democrats in the House Foreign Affairs Committee (10-1) agreed to support legislation ordering an end to all American military involvement in South Vietnam and withdrawal by October 1, 1972 conditional upon American POW release, MIA accounting and safe withdrawal of U.S. forces.

May 11, 1972

20 House members and 2 Senators filed suit to obtain an injunction to enjoin the President from continuing the Vietnam War, from further bombing or the mining of harbors, from further interruption of communication and

rail transportation and other acts of violence against North Vietnam.

May 16, 1972

Senate narrowly adopted an Administration-backed Byrd amendment to the Church-Case end-the-war amendment (State authorization bill) to make U.S. withdrawal also contingent upon North Vietnam's acceptance of a ceasefire (putting the Senate in line with the President's proposal for a ceasefire). The vote was 47-43.

House Foreign Affairs Committee began hearings on a draft joint resolution requiring termination of U.S. military involvement in or over Indochina by October 1, 1972.

May 31, 1972

Senate first adopted the Church-Case end-the-war amendment to the State authorization bill, as modified by the Byrd amendment. In response to the President's May 8th proposal, Senators Church and Case had modified the December 31, 1972 withdrawal deadline reported by the committee to four months after an agreement was reached for the release of American POWs and an accounting of missing. Voice Vote.

Senate then adopted a Stennis amendment to delete the entire Church-Case amendment from the State authorization bill. Voice Vote.

Senate Foreign Relations Committee reported the FY73 foreign military aid authorization bill with a Mansfield end-the-war amendment. This amendment would prohibit: --(1) the use of funds to keep U.S. forces in South Vietnam after August 31, 1972 (no preconditions); --(2) participation by U.S. forces in hostilities in or over Indochina upon completion of a ceasefire agreement between US and communist forces (only), release of American POWs and an accounting of MIAs.

As reported, the bill also placed a \$275 million limit on U.S. aid to or spending in behalf of Cambodia (excluded air operations) and required specific Congressional authorization for use of funds to finance foreign forces operating in Laos, Thailand or North Vietnam (aimed at CIA funding of Thai "volunteers".)

June 12, 1972

Senate began consideration of the FY73 foreign military aid bill which included the Mansfield end-the-war amendment.

June 13, 1972

House Foreign Affairs Committee narrowly adopted a

Buchanan end-the war resolution that the U.S. withdraw from Vietnam within four months of an agreement on American POW release but also conditional on a ceasefire. The resolution, adopted by a vote of 19-18, in substance was an endorsement of the President's May 8th peace proposal. It was a substitute for the proposal supported by committee Democrats (May 10) for withdrawal by October 1, 1972 without complete ceasefire condition.

June 27, 1972

House rejected a Harrington amendment to the military procurement bill to cut off funds for military operations in Vietnam on September 1, 1972, contingent only upon POW release. The vote was 152-244. House also rejected a Mikva amendment to prohibit the bombing of dikes in North Vietnam. Voice vote.

July 18, 1972

Senator Cannon offered an end-the-war amendment to the foreign military aid bill as a substitute to the committee-approved Mansfield amendment (May 31). Senator Cannon's proposal would alter the first section of the Mansfield proposal by changing the withdrawal date from August 31, 1972 to "90 days after enactment" (about December 1, 1972 given Congressional timetables) and make such withdrawal contingent only upon an agreement for the release of American POWs. The second section of the Mansfield provision would be unchanged.

July 19, 1972

Senator Cooper offered an end-the-war amendment to the foreign military aid bill to require the unconditional withdrawal of all American forces from Indochina within four months.

July 24, 1972

Senate adopted a Mansfield amendment to the Cannon end-the-war proposal to change the withdrawal deadline to October 1, 1972 and deleting an agreement that POWs be released before troops were withdrawn. The vote was 60-32.

Senate rejected the modified Cannon amendment to the foreign bill. The vote was 44-49.

Senate rejected a second Cannon end-the-war proposal offered as a substitute to the Cooper amendment (above). This would cut off war funds 90 days after enactment contingent upon an agreement for American POW release. The vote was 40-55.

Senate rejected an Allen amendment (in the nature of a substitute for the Cooper amendment), stating the sense

of the Congress that all U.S. forces be withdrawn from Vietnam four months after an internationally supervised ceasefire and release of American POWs. The vote was 45-50.

Senate adopted a Brooke amendment to the Cooper end-the-war proposal requiring the release of American POWs before the fund cut-off would become effective. The vote was 63-32.

Senate adopted the Cooper end-the-war amendment, as modified by Brooke. The vote was 50-45.

Senate then rejected a Stennis amendment to delete the Cooper-Brooke provision from the bill. The vote was 46-49.

Senate finally rejected the entire FY73 foreign military aid bill by a vote of 48-42. Those opposed to the end-the-war provision were aided by traditional opponents of military assistance.

July 25, 1972

House Foreign Affairs Committee, reversing itself, narrowly adopted a Hamilton amendment to the foreign military aid authorization bill to require the withdrawal of all U.S. forces from Indochina and the termination of all hostilities no later than October 1, 1972 contingent upon a ceasefire with North Vietnam "to the extent necessary" for the safe withdrawal of American troops and upon the release of American POWs and an accounting of MIAs. The vote was 18-17.

July 26, 1972

Senator Cranston reintroduced the revised Mansfield end-the-war proposal (October 1, 1972 deadline) as an amendment to the military procurement bill.

Senator Brooke reintroduced the modified Cooper end-the-war amendment, defeated with the foreign aid bill July 24th, as an amendment to the military procurement bill.

August 1, 1972

House Foreign Affairs Committee voted end-the-war language in the foreign aid authorization bill. It would terminate US military actions "in or over" Indochina by October 1, 1972, with US troops withdrawn by that time, subject to a US ceasefire with North Vietnam "to the extent necessary" to withdraw US forces, and subject to POW release and MIA accounting. The vote was 18 to 17 in favor.

August 2, 1972

Senate first adopted an Aiken amendment to the Cranston end-the-war proposal (above) to declare withdrawal would be completed four months after an internationally supervised ceasefire had been declared (in line with the President's terms). The vote was 50-47.

Senate then adopted the Brooke end-the-war amendment as a substitute for the Cranston and Aiken proposals. The vote was 49-47. Senate reaffirmed adoption of the Brooke substitute by a vote of 50-47.

It adopted a Miller amendment to the Brooke substitute making withdrawal also conditional upon an accounting of MIAs. The vote was 95-2. And it rejected 1-96 a Mansfield motion to table (kill) the Miller amendment.

Senate also adopted a Pastore motion to table (kill) a Dole amendment stating that Congress accept full responsibility for the consequences of adopting the Brooke amendment. The vote was 59-38.

August 10, 1972

House adopted a Bolling amendment to delete the end-the-war provision from the foreign aid bill. The vote was 229-177.

August 14, 1972

The House, considering war powers legislation previously passed by the Senate, passed by a vote of 344 to 13 amended language which was less restrictive of the President's war powers than the Senate version; the House version was similar to the milder resolutions passed in the two preceding years.

September 8, 1972

House and Senate conferees to the military procurement bill agreed to delete the Brooke end-the-war provision adopted by the Senate August 2. Senator Brooke announced he would reintroduce the amendment when the Senate considered the revived foreign military aid bill.

September 14, 1972

House rejected an Addabbo amendment to the DOD appropriations bill to cut off funds for support of U.S. activities in Vietnam, Laos and Cambodia pending the release of American POWs and an accounting of MIAs. The fund cut-off would become effective four months after enactment and apply only to funds in the defense bill. The vote was 160-208.

September 19, 1972

Senate Foreign Relations Committee approved a revised foreign military aid bill with Brooke end-the-war provision requiring the withdrawal of American forces from Indochina in four months contingent upon the return

of American POWs and an accounting of MIAs.

September 26, 1972 Senate narrowly adopted Stennis amendment to the foreign military aid bill to delete the Brooke end-the-war provision from the bill. The vote was 45-42.

October 2, 1972 Senate rejected (26-55) a Proxmire amendment to the DOD appropriations bill to ban the use of funds in the bill for American bombing in Indochina.

Senate however also adopted a Mathias amendment reaffirming the 1971 anti-war language (the only language approved by both Houses of Congress) that it was US policy to end military operations in Indochina "at the earliest practicable date."

October 10, 1972 Senator McGovern outlined his plan for peace in Indochina. Under the proposal outlined, he, as President, would:

- bring an immediate halt to all bombing and acts of force in Indochina;
- terminate any shipments of military supplies that continue the war;
- withdraw all American forces from Vietnam, Laos, and Cambodia along with all salvageable American military equipment within 90 days;
- inform Hanoi of these steps and request it, in exchange, to release all American POWs and provide an accounting of MIAs to be completed during the 90-day American withdrawal;
- notify all parties that the U.S. will no longer interfere in the internal policies of Vietnam;
- close American bases in Thailand once American POWs had been released and an MIA accounting provided;
- join with other to provide reconstruction aid to Vietnam;
- expand Veterans' programs in the United States;
- provide amnesty to draft evaders contingent upon a period of alternative domestic service.

December 18, 1972 Resumption of bombing of North Vietnam prompted renewed anti-war statements on the Hill, foreshadowing new legislative end-the-war efforts in 1973.

APPENDIX C

C-1973 Press (Mar/Apr)

DENVER POST
16 March 1973 (23)

But Not With U.S. Forces

OUR GOVERNMENT is gravely and properly concerned this week over the reports that North Vietnam is continuing to move troops and weapons down the Ho Chi Minh Trail toward South Vietnam in possible violation of the Paris peace agreement.

The Pentagon has estimated that the traffic has involved about 30,000 soldiers, 300 armored vehicles and some heavy artillery and antiaircraft guns since the first of the year.

How much of that has moved down the trail since the peace agreement was signed in late January is not clear. But the post-treaty movement has been substantial enough to worry U.S. officials and raise additional doubts about whether Hanoi intends to allow a meaningful peace.

The picture is complicated by an unfortunate vagueness in the language of the Paris treaty on the subject of the introduction of new troops and weapons.

Article 7 says that at this stage "the two South Vietnamese parties shall not accept the introduction of troops, military advisors . . . armaments, munitions and war materials into South Vietnam."

But the article doesn't say how the two parties go about not accepting the introduction of troops and weapons, if the troops and weapons remain under the control of North Vietnam, which is not mentioned in the article at all.

In addition, Article 7 specifically permits the "two South Vietnamese parties" to make periodic replacements of arms which have been destroyed, damaged, worn out or used up after the cease-fire.

A further complication is that the United States was supplying arms to South Vietnam at an accelerated rate before the cease-fire and there have been reports that South Vietnam has violated the treaty as well as North Vietnam.

None of this in any way lessens the danger to the peace or the breach of good faith which the North Vietnamese movement of troops and arms brings with it.

OUR GOVERNMENT OUGHT to do everything it can through diplomatic means and non-military pressure to bring the movement toward the south to a halt.

There is one thing, however, which it ought not to do, and that is to become reinvolved in the Vietnamese fighting.

The movement of the North Vietnamese is primarily a problem for the South Vietnamese, who have been trained and equipped for years to handle such a development.

Having halted aerial bombing in both the north and the south, the United States ought not to resume it. Having moved most of the way toward a total troop withdrawal from Vietnam, the United States ought not to stop the withdrawal.

NEW YORK TIMES 18 MARCH 1973 (19)

Latest Nixon Threat

By James Reston

WASHINGTON, March 17—In his press conference the other day, President Nixon confirmed that the North Vietnamese had been sending heavy military equipment into South Vietnam in violation of the truce agreement, and he issued what could only be regarded as a threat of U.S. retaliation if these violations continued.

"We have informed the North Vietnamese of our concern about this information . . ." he said. "Our concern has also been expressed to other interested parties (presumably the Soviet Union and China), and I would only suggest that, based on my actions over the last four years, the North Vietnamese should not lightly disregard such expressions of concern when they are made . . ."

The meaning of this is fairly clear. Based on his record over the last four years, Mr. Nixon's reaction to North Vietnamese violations of agreements, or even North Vietnamese defiance of his warnings, has simply been to bomb the hell out of them. And here he is back again in that "don't monkey with Nixon" mood.

Maybe several things ought to be said about this. First, Hanoi is obviously cheating on the truce agreement, and cheating big. Henry Kissinger has wanted to believe all along that he could count on the good faith of Hanoi's principal negotiator, Le Duc Tho, but he confirms that the North Vietnamese have not only sent substantial numbers of men down the Ho Chi Minh Trail into the South, but that they have also sent about 300 tanks and considerable quantities of artillery and anti-aircraft guns as well. In fact, Hanoi has made little effort to conceal these violations.

Second, Hanoi's excuse for doing so—and it's a pretty flimsy excuse—is that they had an agreement in principle with Mr. Kissinger back last October and would have been able to reoccupy their garrisons in the South if it hadn't been for President Nixon's Christmas bombing campaign, which

WASHINGTON

they regard as a violation of the Kissinger-Le Duc Tho October draft truce. Anyway, they have acted on their own and the President has come back with his implied threat of renewing the bombing if they don't honor the terms of the truce.

For the moment, this is no big crisis. President Nixon is an unpredictable man when he thinks he's being challenged, and the North Vietnamese, no doubt, fearful that Saigon would massacre their garrisons if they could, have challenged him.

But even with 300 new tanks and a considerable number of new recruits from the North, Hanoi is in no position to mount an effective offensive against Saigon's million-man army, which has complete control of the air, and President Nixon is not likely to carry out his threats before all the American prisoners of war and the few thousand remaining American troops have been safely evacuated.

Once this withdrawal of American prisoners and troops is complete—and it will be within a few weeks—there will be an interesting legal question: What legal authority would the President then have to order American men or bombers back into the battle?

The Gulf of Tonkin Resolution, which was regarded by the Johnson and Nixon Administrations as Congressional approval for carrying on the Vietnam conflict—virtually as a declaration of war—was nullified by the Congress in December of 1970 and signed by President Nixon himself on Jan. 12, 1971.

On July 1, 1970, Howard K. Smith of the American Broadcasting Company asked Mr. Nixon what legal authority he would have to carry on the war if the Gulf of Tonkin authorization was withdrawn on Capitol Hill.

Mr. Nixon replied that "the President of the United States has the constitutional right—not only the right but the responsibility—to use his powers to protect American forces when

they are engaged in military actions, and under these circumstances, starting at the time that I became President, I have that power, and I am exercising that power."

But now clearly "the circumstances" are different. The legal shield for the war—the Gulf of Tonkin Resolution—has been repealed, and when the American prisoners and the last remnants of the American expeditionary force are withdrawn, the President will not be able to "use his powers to protect American forces when they are engaged in military actions," because there will be no American troops there to protect.

Accordingly, one wonders why Hanoi and Washington keep on playing these games at this late date. Hanoi cannot run any great advantage by sending a few thousand men and 300 tanks into the South, for President Nixon has the right, and can easily get the votes and the money to help Saigon smother this violation of the truce agreement.

But what the President cannot legally do on his own after our prisoners and troops are gone is to carry out his implied threat to send the American bombers back into the battle. It is too late for that now. We have had too much war in Vietnam under vague constitutional authority to run it up again by Presidential fiat.

Maybe it's all right to threaten Hanoi, for the officials there have not been faithful to the truce or their personal promises to Mr. Kissinger and the President. But it does have to be published in order to maintain the balance of power in Vietnam. This can be done practically and legally by aid to Saigon. It cannot be done legally now with personal instructions by the President to the Air Force. If this is necessary, and it is hard to imagine that it is, then the question has to go back to the Congress for approval.

The U. S. must not return to the Vietnam quicksand

March 28 is ten days from today. In that interim we will not even speculate that President Nixon would impede the completion of the prisoner return and U. S. withdrawal agreement in Vietnam. That swap is a fragile business, charged with emotionalism and with symbolism.

Mr. Nixon, however, expressed what can be reasonably taken as worrisome resolve in his Thursday news conference.

We are of no mind to make more of it than there is there. We profoundly hope the President is not contemplating what could become re-engagement in the Indochina war. We are eager to be convinced that he is as committed as we believe the vast majority of Americans are to getting America finally and totally out of that ugly involvement.

But even with those reservations, the President's Thursday statement is ominous:

"I only suggest this: That we have informed the North Vietnamese of our concern about this infiltration and what we believe it to be, a violation of the cease-fire, the cease-fire and the peace agreement. Our concern has also been expressed to other interested parties and I would only suggest that based

on my actions over the past four years that the North Vietnamese should not lightly disregard such expressions of concern."

The infiltrations of which he spoke are of North Vietnamese men and materials into the south — charged by some to be in greater quantities than the replacement allowances the cease-fire provides.

The "actions over the last four years" to which Mr. Nixon refers may — or may not — be taken as the invasions of Cambodia and Laos, the blockading and mining of Haiphong harbor, or the intolerable bombing of Hanoi and other population centers during the final cease-fire negotiations.

Speculations abound about the relative strengths and stabilities of the Thieu regime and of the remaining Communist cadre in the South, and about the prospects for continued civil war within South Vietnam.

They are interesting speculations. But they do not relate to the U. S. national interest, which is — we firmly believe — to free America from all involvement in the Indochinese peninsula, and to leave its future, its politics and its wars, if they must be, to the Indochinese.

Threatening the Truce

President Nixon certainly has every justification for expressing concern over the continuing violations of the Vietnam cease-fire agreements, inasmuch as the "rather serious consequences" he mentioned this week involve not only the truce in Southeast Asia but the stability of the American homeland.

Intelligence reports of apparent massive flows of war materiel—tanks, artillery and anti-aircraft guns—toward South Vietnam from the North are indeed disturbing. The Administration's argument last January for ignoring the continued presence of North Vietnamese troops inside South Vietnam was that without being reinforced and re-equipped they would cease to be an effective military force. Now that assurance may be in jeopardy.

There is ample evidence, however, that the cease-fire violations are not all on the North Vietnamese side. We hope that Mr. Nixon is considerably stronger on this point in his private communications with the Saigon Government than he was in his news conference. In public he seemed to dismiss the violations of the truce on the ground, for which Saigon's forces have been as responsible as Hanoi's, as inevitable, "because of the nature of the war." It is untenable to hold one set of violations more legally reprehensible than another; anyone who expects to benefit from the obligations of others has the obligation to honor his own undertakings. (The President left little doubt that he regarded resumption of bombing and harbor mining as a viable option against North Vietnam. Hanoi's leaders recently tried to test Mr. Nixon's resolve on the cease-fire terms by delaying the process of releasing American war prisoners, and when they saw the Administration's firmness they returned to the agreed-upon schedule. A similar response is looked for now.)

Contained in the President's scarcely veiled threat, however, was an ominous time bomb. The Congress has maintained relative silence on recent Vietnam developments only under the firm hand of its Democratic leadership, concerned that the sixty days of releasing the prisoners pass without reverses. Once that process is completed, by March 28, both the Congress and the President must be aware that resumption of combat by American military personnel could threaten a constitutional crisis of the first order.

Senators Church and Case have bipartisan legislation ready for floor action flatly forbidding the reintroduction of any American forces into hostilities in Southeast Asia. Even without passage of such a measure, there are strong arguments from Mr. Nixon's own statements that the President would have no constitutional authority to recommit American military forces. The Tonkin Gulf resolution, which the Johnson Administration considered a virtual declaration of war by Congress, was repealed in 1970. Shortly thereafter Mr. Nixon argued that his legal justification for carrying on the war in North Vietnam was "the right of the President of the United States under the Constitution to protect the lives of American men."

With American prisoners safely at home and American troops correspondingly withdrawn from South Vietnam, the President would be hard-pressed to invoke this justification again. Any move to resume hostilities against North Vietnam could provoke a restive Congress into its most bitter challenge yet of Presidential powers.

Vietnamizing the Peace

Fifty-one days after the signing of the Vietnam cease-fire agreements, the two South Vietnamese sides have finally got down to talking about the political future of their land. For the first time in the long series of Vietnam conferences the common language of the participants is Vietnamese. By rights, this Paris conference should be the culmination of a decade of war, the forum at which at last can be exercised "the South Vietnamese people's right to self-determination," in the words of the truce agreements. These documents blandly declared that ninety days would be a reasonable period for the two sides to reach agreement on their internal affairs.

Nothing that has happened in Vietnam since the cease-fire, nothing said at the opening of the Paris meetings Monday, gives room for any confidence that the two South Vietnamese administrations are even close to the spirit of "national reconciliation and concord" prescribed for them by the diplomats. National elections, creation of the tripartite National Council, demobilization of armed forces—all these matters which the South Vietnamese were supposed to settle on their own seem as illusory now as ever.

Did anyone ever honestly believe that it would be otherwise? Diplomatic rhetoric aside, the best that could have been hoped for from the cumbersome political machinery envisaged by the cease-fire agreements was the transfer of the South Vietnamese power struggle from the military to the political arena. This remains a possibility, but the portents are not comforting.

Far from moving toward a Vietnamization of the peace, the charges traded by Hanoi and Washington these days suggest that the two capitals intend to remain as deeply engaged in South Vietnam's future as they were at the height of the war. Hanoi's apparent violation of the truce terms, its dispatch of heavy military equipment toward its forces in the South, signal that it has no expectation of replacing the military struggle with purely political maneuver. The latest reports of a slowdown in this infiltration, while welcome for the immediate future, does not change this longer-term design.

President Nixon's terse warnings about the violations may have been headed for the moment, but they still raise an ominous question about his vision of future American responsibilities in South Vietnam. The direct United States interest in the cease-fire structure remains to obtain the release of the American prisoners of war. According to the schedule which has been more or less respected, that will have been completed one week from today. After that point has been passed, the issue will be whether the Nixon Administration considers itself to have any continuing obligation to guarantee the terms of the cease-fire agreements.

Is the United States somehow obliged to hold the North Vietnamese at bay while the two South Vietnamese parties work out their internal arrangements? On present appearances that may take closer to ninety weeks than ninety days. If this is the Administration's position, if it accepts some kind of specific commitment to enforce a cease-fire that no side seems ready to honor fully, the dangers are still ominously large of a continuing American engagement in Vietnam's power struggles despite the lessons of the past.

Persuasion and the Cease-Fire

The return of the American prisoners in Indochina is proceeding ahead of schedule, which is reassuring with only a week remaining before the deadline.

With the release of the last prisoner, and that may come Sunday, the last American soldier can be withdrawn. And with withdrawal of the last soldier, the military role of the United States will end. As it should. That was the central objective of the cease-fire agreement.

In Saigon, there is talk of perpetuating the Joint Military Commission created by the cease-fire agreement. The United States serves on that commission with North and South Vietnam and the Provisional Revolutionary Government of South Vietnam. It was intended as an interim arrangement for the 60-day troop withdrawal period. It was also intended to provide a bridge until Viet Cong and Saigon officials agreed on a two-power commission to take over the task. That has not worked out yet. The peace agreement anticipated just such difficulties and suggested, nevertheless, that the matter be left to the two warring South Vietnamese parties. It seems as sensible now as it did when negotiated two months ago.

In Washington, President Nixon has hinted that he will resume the American bombing if alleged cheating on the cease-fire by the Communists continues. Perhaps such things must be said. But Mr.

Nixon knows as well as anyone else how unacceptable to most, and certainly to the American people, any such resumption would be. His responsibility has been to keep the prisoner exchange and troop withdrawal on schedule, and his firmness can be justified on that score. That is the only remaining American interest.

This is not to argue that it is unimportant whether the cease-fire is fully implemented. It is obviously important. But its importance is for the Vietnamese people, not for the Americans. The Vietnamese are the losers if fighting continues. The Vietnamese will share the benefits if the fighting yields to the political competition and compromise envisioned by the cease-fire agreement.

Once the last Americans are out of Vietnam, the United States will have no justification, no rationale for resort to arms or the threat of arms in that region. That fact will surely guide the President regarding the 45,000 American troops remaining now in Thailand, and the thousands of Americans remaining in the forces off shore in the Gulf of Tonkin.

Washington's only remaining power will be the power of persuasion. A significant argument for respect of the cease-fire flows from the American promise in the Paris agreement to "contribute to healing the wounds of war and to postwar reconstruction" throughout Indochina. That promise cannot be kept unless the firing ceases.

NEWSWEEK 26 MARCH 1973 (20) A PRISONER OF RHETORIC

BY STEWART ALSOP

WASHINGTON—As his bitterest critics would agree, President Nixon is a tough man. He may soon be confronted with the toughest decision of his career. The decision is made all the tougher because the President is a prisoner of his own rhetoric.

At a press conference a few days ago, the President said flatly that the North Vietnamese were violating "the cease-fire and the peace agreement" by sending 30,000 troops and 300 tanks south on the Ho Chi Minh Trail. He had, he said, already expressed "our concern" to "other interested parties"—meaning the Russians and the Chinese. Then he added: "I would only suggest that based on my actions over the past four years, that the North Vietnamese should not lightly disregard such expressions of concern."

His meaning was clear: Lay off or I'll clobber you. The President also expressed the hope and the belief that the clobbering would not be necessary. In the White House, a number of reasons are given for this hopefulness.

The Communists may just be doing a tit-for-tat for the heavy U.S. shipments of arms to South Vietnam in November and December. Or this may be just another "test of manhood," like the delay in the release of American prisoners in late February. That test was met when the President ordered a halt to the clearing of the mines in Haiphong Harbor, and Hanoi within four days resumed the prisoner release. Perhaps the present test of manhood will have a similar happy ending.

THE OBVIOUS

Perhaps not. Winston Churchill liked to point out that it was sometimes useful to recognize the obvious. The obvious interpretation of Hanoi's move is that the Communists are preparing to finish unfinished business—in launch another assault, sooner or later, to capture South Vietnam. If the obvious conclusion is also the correct conclusion, the President will be faced with that tougher-than-ever decision. And his own rhetoric leaves him little real choice.

The President has said again and again—and again—that he has achieved "peace with honor." "I know it goes some of you to write that phrase," he told a press conference, "but it is true."

It is not true, although the President certainly believes that it is true. The President has not achieved peace with honor. He has achieved a reasonably respectable extraction of the United States from Vietnam. That is a major achievement, but it is not peace. It did not take much prescience to

foresee that the cease-fire was "sure to be broken"; or that the North Vietnamese, despite the pact, would "not withdraw from Laos and Cambodia"; or that "there will not be peace in Vietnam [or] even an armistice that lasts more than a few weeks or months." (The words in quotes are from previous reports in this space.) These things were easily predictable for obvious reasons.

NO MEAN FEAT

True peace is impossible when both sides are armed, when neither side is defeated, when one side is still determined to defeat the other, and when there are many thousands of "people who hate each other's guts living within a rifle shot of each other." So the President did not in fact achieve "peace." What he did achieve—and it was no mean achievement—was a lot more honor than the withdrawal of the U.S. troops would have permitted.

The McGovern formula called for getting our prisoners back by cutting off all support for South Vietnam and thus ensuring a Communist victory. The McGovern formula called, in other words, for getting our prisoners back by betraying a small ally. The Nixon formula called for getting our prisoners back without betraying a small ally.

The Nixon formula prevailed because a majority of the voters supported it, as the election clearly showed, and as the North Vietnamese came to realize before the election. The voters supported it because they sensed that the McGovern alternative would disgrace the United States. The voters also supported it because they saw it as the best way to get our prisoners back and protect the remaining American troops in Vietnam.

Now all that is changed. There are, or soon will be, no more U.S. prisoners in the north and no more U.S. troops in the south. This small ally has not been betrayed. As both President Thieu and President Nixon have repeatedly said, the South Vietnamese will soon have to "undertake the total defense" of South Vietnam. Under these changed circumstances, how much popular support will the President have if he clobbers North Vietnam all over again?

True, the clobbering might initially be on a modest scale—a reimplosion of the blockade, or tactical air strikes in Cambodia, Laos or South Vietnam. But if the history of the war proves anything, it is that modest clobberings

don't work. Sooner or later the bombers would have to hit Hanoi again.

Since the useful military targets were destroyed in the December bombing, this round might have to be what it was not in December—population bombing, terror bombing. Since the anti-aircraft missiles destroyed in December have been replaced, our planes would again be shot down, our prisoners again shoved behind the stockades.

This prospect is a nightmare for the President. For certain results seem easily predictable. The country would again be torn apart, perhaps this time once too often. The President's standing in the polls would plummet, and his prestige and authority would plummet also. The reaction abroad would be violent enough seriously to threaten the already threatened Atlantic alliance. And something else, less easily definable, would happen too.

(A lot of people (including, for example, me) went along reluctantly with the President's Vietnam policy, because the McGovern alternative was shameful. If the President again sends the bombers over Hanoi, such people are going to begin asking themselves some hard questions.)

The White House estimate is that the North Vietnamese cannot mount a successful main-force attack on South Vietnam for many months—at least until next autumn. Can the South Vietnamese not learn to defend their own turf within these many months? If not, why not? And if not, when? Must we really send the bombers north again, in order to prove the integrity of the President's rhetoric? Will it work if we do? Won't the Senate rescue Hanoi, as the Senate was ready to do in December, before the Paris pact was signed?

It is most earnestly to be hoped that these questions need never be asked. Paradoxically, the best reason for so hoping is that the President, trapped by his own rhetoric, has very little choice but to make good on his threat if the violations continue. Moscow and Peking no doubt know that this is so, and they will no doubt let Hanoi know that it is so.

NEW YORK TIMES - 28 MAR 1973 Page 43

Nixon's War Powers

By James Reston

Now that the last of the American prisoners and troops are on their way home from Vietnam, it would be useful if President Nixon would tell the country what authority he thinks he has to carry on military action in Indochina rather than leaving the explanation to Senator Barry Goldwater.

The Senator from Arizona asserts in a letter to The New York Times that the President has the legal authority to punish violations of the Vietnam peace agreement on his own, and says questioning of this authority is "destructive of the peace we all seek."

"The President can, if he sees need," Senator Goldwater writes, "order reprisals in line with more than 24 acts of Congress which were judicially determined in *Orlando v. Laird* to provide Congressional collaboration in the Indochina war."

Well, this may be so, but that "Congressional collaboration" was authorized before the Congress specifically repealed the Tonkin Gulf Resolution, which had been regarded by Presidents Johnson and Nixon as legal sanction for the war. Also, if the Congress has the power to sanction and finance a war, it also has the power to withdraw both sanction and funds.

"Acting as Commander in Chief, which confers on him supreme direction over the armed forces," Senator Goldwater adds, "the President possesses full constitutional authority to judge that the terms of the armistice

which he negotiated have not been met by the enemy and that an actual state of war continues there that carries with it his power and duty to enforce that settlement."

If this is true, then President Nixon not only has the power but "the duty" without a word to Congress to order the bombers or even American ground troops back into Vietnam to "enforce" one of the most ambiguous settlements ever negotiated at the end of a war.

The fact is that the armistice agreement is being violated constantly by both sides, but the main American objective of the agreement was to get the Americans out of Vietnam, not to impose on the President "the duty" to get them back in whenever he personally judged that the armistice was being violated.

"As Chief Executive of a sovereign nation and bearer of primary powers over the conduct of foreign affairs and the maintenance of our national defense," Senator Goldwater remarked further, "the President possesses a constitutional independence in these two fields which reinforces his authority in this situation."

This is undoubtedly true, but it is not a power "independent" of the Congress in the present situation where the President can no longer claim to be "protecting the lives" of American troops and prisoners. Besides, if Senator Goldwater is correct, Mr. Nixon also has the right and duty to take whatever military action he wants to enforce not only the Vietnam settlement, but the Korean settlement, and for that matter, the World War II settlement.

It is odd that one of the most sincere conservatives in the Senate, who has fought against excessive Presidential power for half a lifetime, should defend such extraordinary authority for the Chief Executive.

And odder still that the President who has taken such credit for getting out of the war, should not explain

what the B-52 bombers are doing in Cambodia, and why, and on what authority. This is not a subject that should be left to a couple of non-legal amateurs, but is central to the larger issues of the President's war powers, his executive privilege, and his right to impound funds.

Is it really "destructive of the peace we all seek" to wonder whether the President has the personal right to send his bombers and troops back into the Vietnam struggle? Nobody honestly thinks he is considering such a move in Vietnam, but to assert his "right" and even "duty" to do so if he personally chooses indicates just how much things have changed since conservatives were worrying about "the supremacy of the Presidency."

Besides, it is hard to see the logic in Senator Goldwater's assertion that *Orlando v. Laird* support his case, for what the court said in *Orlando* was that Secretary Laird had the right to send *Orlando* to fight in Vietnam because the Congress had appropriated funds specifically for such a purpose. The Congress, however, has not appropriated funds to reintroduce troops into Vietnam after the armistice.

The President has asserted an absolute right to shield his staff from Congressional or legal questioning, not only about their personal dealings with him, but about their personal dealings with men convicted of burglarizing Democratic headquarters in the Watergate case. This has aroused a storm over whether or not he has such an "executive privilege," but at least in this case the President issued an official statement defining what he thinks his powers are.

No such statement, however, has been forthcoming from the White House on the President's intervention in Cambodia or his right of reintervention in Vietnam after the prisoners and troops are home. And oddly enough, the Congress has not yet requested an official explanation of what the President's policy actually is.

LOS ANGELES TIMES - 30 MARCH 1973

Indochina: Relief and Anxiety

There is obvious relief that the last American prisoner has been returned and the last American soldier pulled out of Vietnam. But the relief is qualified by anxiety about the intentions of American leadership.

The Paris agreement has achieved its central purpose—the military disengagement of the United States from Vietnam. Peace has not yet come. The killing goes on.

The White House and the Pentagon have asserted a determination to go on bombing Cambodia. President Nixon Thursday night again encouraged speculation that he might resume bombing North Vietnam and the supply routes from North to South Vietnam. As if there were an American interest there. As if nothing had been learned from the last eight years. As if it did not matter that the whole cycle of mass destruction and captured Americans might be risked again.

Secretary of Defense Elliot L. Richardson went before Congress to defend military action in support of the Cambodian regime of Lon Nol, elevating that tattered and tottering contrivance of expediency to the status of "ally" despite explicit renunciation long ago of the one treaty that had bound the nations. President Nixon apparently had forgotten his promise, at the time of the American invasion of Cambodia, when he said that American action in Cambodia after July 1, 1970, would be limited to "air missions to interdict the movement of enemy troops and materials where I find this necessary to protect the lives and security of our forces in South Vietnam."

A giant American force remains grouped on the periphery of Indochina: offshore, 30,000 men, a flo-

atilla that includes two carriers, with two more in nearby callup positions; in Thailand, 43,000 Americans, 450 warplanes, including 30 B-52s, and a new American command, U.S. Support Activities Group at Nakorn Phanom, discreetly located more than 500 miles from Bangkok and the gaze of foreign correspondents. And, within South Vietnam, there remain an estimated 10,000 Americans in multi, many of them unmistakably military and intelligence operatives.

There is good reason for the uneasiness in high American quarters. This weekend marks the first anniversary of the spring offensive in which North Vietnam shattered the hope that South Vietnam could defend itself. The same kind of North Vietnamese buildup is going on again, in clear violation of the cease-fire. And, in Cambodia, the "firm expectations" for a cease-fire reported by Henry A. Kissinger last Jan. 29 have not been realized.

It is an understatement to say that all of this is disappointing. But, at the same time, it seems to us terribly mistaken to find in this situation any justification for an American military response.

Washington is not the policeman of the cease-fire. The whole structure of the agreement, above all else, was designed to do the very opposite—to get rid of foreign interference that for 30 years had only made matters worse.

This war has taught one lesson well, and that is that the United States, even when it wanted to, could not control the outcome of the struggle. Any prolongation, any resumption, of American military activity in Indochina can only compound the tragedy and postpone the solution that only the Indochinese themselves can find.

WASHINGTON POST 31 March 1973 P2

Angered Senators in Drive To Halt Cambodian Bombing

By Spencer Rich
Washington Post Staff Writer

A drive to block the President from bombing Cambodia or conducting military operations in any other Indochina nation without the advance approval of Congress got under way in the Senate yesterday.

Angry over continued U.S. bombing of Cambodia and disturbed by veiled presidential threats of action against North Vietnam should it fail to comply with the Vietnam peace agreement, Sens. Clifford P. Case (R-N.J.) and Frank Church (D-Idaho) conferred yesterday and agreed to press forward with their amendment to block further use of U.S. air, land and sea forces in or over Indochina.

The two senators first drafted their proposal several months ago, but put it aside until all U.S. prisoners and forces were withdrawn from Vietnam under the terms negotiated in Paris. This is now completed.

Now that U.S. combat forces are out of Vietnam, U.S. participation in the Vietnam war is ended, and therefore any further use of combat forces anywhere in Indochina would constitute a new war, requiring the advance consent of Congress, Case and Church contend.

The two senators didn't decide on a legislative vehicle for their amendment. They will consult Senate leaders and allies on which bill to attach it to. One possibility is the \$578 million authorization bill for the State Department and international agencies. Another is the military procurement authorization, a vehicle in the past for several anti-Vietnam war amendments.

While the Case-Church amendment applies to all

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types of combat throughout Indochina. Sen. Walter F. Mondale (D-Minn.) said yesterday that he will press for an immediate no-bombing amendment applicable to Cambodia only.

Mondale said he also supports the broad Case-Church proposal, but "it is necessary that we focus on the serious Cambodian situation at this time."

The Senate Foreign Relations Committee is to begin hearings Tuesday on the \$578 million State Department authorization bill. Chairman J. W. Fulbright (D-Ark.) has questioned whether the President has any legal authority to conduct bombings of Cambodia and has demanded that the administration explain why the bombing is continuing and cite a legal basis for it. Case and Church are senior members of the committee.

Case, Church, Fulbright, Mondale and many others have taken the position that with the Vietnam war over and U.S. troops withdrawn, President Nixon lacks any further legal authority either to continue bombing Cambodia or to reintroduce U.S. land, sea or air combat operations in Vietnam or any other country of Indochina. In demanding an explanation of Cambodia, Fulbright earlier this week cited news reports that U.S. B-52s had bombed Cambodia for 19 consecutive days.

The choice of a vehicle for the Case-Church and Mondale amendments is a crucial one. Some senators are said to believe that a legislative showdown should be delayed for several months at least, feeling that support for restrictive amendments won't crystallize until the war's end is further behind the nation. At any rate, neither the State Department authorization nor the procurement bill will reach the Senate floor for some weeks or even months.

APPENDIX D

D-1973 Congressional

APPENDIX D

VIETNAM 1973 - SAMPLING OF CONGRESSIONAL ACTIONS

January 1, 1973 18 House Democrats, in letters to House Speaker Albert and Party Chairman Strauss, urged a national campaign to mobilize opposition to the bombing of North Vietnam.

January 2, 1973 Senator Brooke announced that he would reintroduce his end-the-war amendment in the form of a bill as soon as Congress reconvenes.

January 2, 1973 House Democratic Caucus adopted a resolution in support of legislation to immediately cut off funds for U.S. combat activities in Indochina, subject only to the safe withdrawal of U.S. troops and the release of POWs.

January 4, 1973 Senate Democratic Caucus voted 36-12 in favor of legislation to cut off all funds for the Indochina War as soon as an agreement could be reached for safe American troop withdrawal and the release of American POWs.

January 10, 1973 Senator Hughes announced that there may be an attempt in the Senate to delay confirmation of President's cabinet nominees as a means of putting pressure to end the war.

May 2, 1973 Senate Democratic Caucus adopted a resolution calling for legislation stopping further use of funds for U.S. military activity in Cambodia. Senator Mathias vowed to introduce legislation to end all military actions over Indochina.

May 3, 1973 House Appropriations Committee rejected an Addabbo amendment to the second FY1973 supplemental appropriations bill to prohibit a DOD transfer of funds from other programs for costs related to the war, which would have prohibited the use of funds for military activities in Southeast Asia, including Cambodia. The vote was 14-31.

May 10, 1973

House Democratic Caucus agreed to support the Addabbo amendment on the House floor. The vote was 144-22.

House voted in favor of the Addabbo amendment to the second supplemental appropriations bill. The vote was 219-188.

House also adopted Long amendment to the supplemental appropriations bill to specifically prohibit the use of any funds in the bill for support of combat activity in or over Cambodia. The vote was 224-172.

House adopted, by voice vote, a Rarick amendment to the supplemental appropriations bill prohibiting the use of funds for reconstruction aid to North Vietnam.

May 14-15, 1973

Senate Appropriations Committee voted unanimously (24-0) in favor of Eagleton amendment (to second supplemental) to cut off all money for US bombing "in, over or from the shores of Cambodia or in Laos."

The Senate committee also voted to prohibit DOD from transferring funds from other departmental programs to finance combat activities in Cambodia or Laos (but approved transfer of \$170 million to pay for increased military costs due to devaluation of the dollar and increased military subsistence costs).

The Committee also agreed to incorporate the House passed Rarick amendment prohibiting funds for reconstruction of North Vietnam.

Senate Foreign Relations Committee by a 13 to 3 vote, approved a ban on the use of any present or past government funds to finance any US combat or bombing activities in Indochina. This prohibition was sponsored by Case and Church, attached to a State authorization bill.

May 17, 1973

Senate Foreign Relations Committee voted 15 to 0 in favor of war powers legislation restricting the President's ability to wage undeclared war for more than 30 days without Congressional approval. Bill sponsored by

Javits, Eagleton and Stennis. (Senate had passed a similar bill in 1972 which died when the House passed a weaker version. In 1973 a House Foreign Affairs subcommittee passed a stronger measure sponsored by Zablocki, with a 120 - vice 30 - day deadline in the Senate version.)

May 23, 1973

Senate Foreign Relations Committee reported out (16-0) the State Department authorization bill with a Church-Case end-the-war amendment which was broader than the Eagleton amendment to the supplemental (re Cambodia and Laos). Church-Case barred expenditures for all U.S. military operations throughout Indochina without specific Congressional approval. SFRC also attached an amendment prohibiting aid to North Vietnam without specific Congressional approval.

May 29, 1973

Senate ruled by a vote of 55-21 that the Eagleton amendment was germane to the supplemental appropriations bill.

May 31, 1973

Senate voted 63-19 in favor of the Eagleton amendment to the supplemental appropriations bill to cut off all funding for bombing in Cambodia and Laos.

In debate, Senate had rejected a Taft amendment to the bill to permit partial bombing to continue, directed solely against North Vietnamese troops in Cambodia. The vote was 17-63.

Senate also rejected Dole-Helms amendment to postpone implementation of the Eagleton amendment if the President informed Congress that the North Vietnamese were not making a good faith effort to account for American MIAs. The vote was 25-56.

June 7, 1973

House adopted a Rarick amendment to the State Department authorization bill barring the use of any funds for reconstruction aid to North Vietnam. The vote was 44-18.

House Foreign Affairs Committee voted 31 to 4 in favor of war powers legislation. (It would require Congressional approval for continued

US bombing in Cambodia). Contained a reporting deadline for the President of 72 hours after US military action and termination within 120 days absent Congressional approval.

June 13, 1973

Day of Hanoi/Washington communique on peace agreement implementation. Press reported that Congressional opponents of bombing in Cambodia would nonetheless continue their efforts to enact legislation cutting off funds for air strikes. Senator Mike Mansfield felt as far as he knew that there was nothing in the joint communique "that changes the situation in Cambodia."

June 14, 1973

Senate voted 67-15 to pass the State Dept. authorization bill with the Church-Case provision. Bill to be sent to conference with the House.

June 19, 1973

House and Senate conferees on the second supplemental appropriations bill agreed to maintain the Eagleton anti-war amendment in the bill.

June 25, 1973

House voted in favor of a funding cutoff, adopting an amendment to the supplemental appropriation bill providing that the House accept the Eagleton amendment. The vote was 235-172.

The Administration failed in a tie vote to delay the effective date of the fund cutoff until September 1. The vote was 204-204.

House agreed to the conference report on the supplemental appropriations bill with the Eagleton cutoff provision.

June 26, 1973

Senate also adopted conference report on supplemental appropriation bill with the Eagleton provision, 81-11.

House attached to a continuing funding resolution a Long amendment prohibiting use of funds for combat activities in Cambodia and Laos, by a margin of 240 to 172. In debate, Mahon amendment to defer cutoff date until September 1 failed.

June 27, 1973	President vetoed supplemental appropriation bill because of its Cambodia rider. While it mustered its largest anti-war vote yet - 241 to 173 - the House fell 35 votes short of the two-thirds needed to override. The Senate promptly reacted by voting 67-29 to attach a bombing ban amendment to another bill on the national debt ceiling.	July 20, 1973	approved in June by House Foreign Affairs Committee, despite threat of Presidential veto. Vote was 244 - 170. Senate also began debate on a war powers measure of its own.
June 28, 1973	House Appropriations Committee reported a new supplemental appropriations bill containing compromise language. While adding North and South Vietnam to Cambodia and Laos, the effective date of cutoff would be put off to August 15, 1973.	July 26, 1973	Senate voted 72 to 18 in favor of its own version of war powers legislation, with 30 day deadline. This measure to go to a Senate-House conference to resolve differences between the two versions.
June 29, 1973	Senate Appropriations Committee voted (9-8) a Continuing Resolution with an amendment providing for an immediate cutoff of all funds for combat activities in North or South Vietnam, Laos or Cambodia. (Case-Church)		House rejected an Abzug amendment to the foreign aid authorization bill to reduce military assistance grants for Indo-China from \$550 million to \$450 million (aimed at deleting assistance to Cambodia). Voice vote.
	House compromise anti-war language for supplemental appropriations bill - with August 15, 1973 deadline won support of the Senate Foreign Relations Committee, 15-2, to be added to Continuing Resolution. Fulbright presented compromise language to Senate. After debate, Senate passed the House-approved language 64 to 26. Also that day, Senate passed an amendment barring funds for reconstruction aid for North Vietnam without specific congressional authorization.		House rejected an Abzug amendment to the foreign aid authorization bill to bar grant aid to Cambodia. The vote was 26-105.
June 30, 1973	Conferees on the Continuing Resolution agreed to delete reference in the bill barring the use of future appropriated funds with respect to activities in SE Asia.	September 10, 1973	House adopted a Biaggi amendment to that portion of the same bill barring materials or commodities to North Vietnam unless it was deemed in the national interest; Biaggi added requirement that there be assurances that North Vietnam was cooperating in accounting for remaining POWs and MIAs. (58-8)
July 1, 1973	President signed the supplemental appropriation bill and Continuing Resolution with compromise language (August 15 deadline); statement released by White House (San Clemente).		House adopted a Rarick amendment to bar the use of funds for reconstruction aid to North Vietnam unless specifically authorized by Congress. Voice vote.
July 15, 1973	Senators returning from holiday visits reported firmly resistant to any consideration of extending August 15 bombing deadline; President would face certain defeat.		Senate Foreign Relations Committee reported (10-0) a foreign aid authorization bill with a McGovern-Hatfield amendment providing for an immediate cut-off of funds for activities, both military and paramilitary, in Indochina and requiring specific congressional approval of any renewal of U.S. involvement in the war. The bill also contained a Case amendment barring U.S. funding or support of military or paramilitary activities by third country military personnel in Laos, Thailand, Cambodia and North or South Vietnam, unless specifically authorized by Congress.
July 18, 1973	Full House passed war powers legislation	September 21, 1973	Senate adopted without dissent a Case-Church amendment to the DOD procurement authorization

bill to prohibit the use of any funds in the bill for combat activities in Indochina unless authorized by Congress.

- October 4, 1973 Follow-up to action in the House on July 18 and Senate on July 20 on war powers legislation, House-Senate conferees filed a conference report on war powers legislation with a 60 day deadline (and 30 days extension to protect US forces). The bill was steered through conference by Javits and Zablocki.
- October 10, 1973 After two House-Senate conferences on State authorization bill, Congress cleared bill which included, among other provisions, the requirement for Congressional authorization effective August 15, 1973, of any funds "heretofore or hereafter appropriated" to finance involvement of U.S. military forces in hostilities in, over or from off the shores of North and South Vietnam, Laos or Cambodia; barred use of any funds "heretofore or hereafter appropriated" for aid to North Vietnam unless specifically authorized by Congress.
- Senate voted 75 to 20 in favor of the compromise war powers legislation worked out in the previous week's conference.
- October 12, 1973 House voted 238 to 123 in favor of compromise war powers legislation.
- October 24, 1973 President vetoed war powers legislation.
- November 7, 1973 House overrode the Presidential veto of the war powers legislation, 284-135, four votes more than the two thirds majority needed to override.
- Four hours later, the Senate completed the process with a 75-18 vote to override, or a 13 vote margin over the two-thirds needed.
- December 14, 1973 Senate adopted (60 to 33) an amendment proposed by Sen. Cotton to cut off funds for Pentagon fuel shipments to Indochina. This symbolic protest was added to the \$73 billion DOD

appropriation bill which was then passed by the Senate, 89 to 2.

A similar ban was part of the Senate's approval of a \$5 billion foreign aid bill, passed on December 17, 55 to 31.

Chairman KERRY. Thank you very much, Mr. Secretary. It is an important statement, it is a strong statement. I certainly agree with significant portions of your statement, but I must say that I think you perhaps either take such personal umbrage at the process that has put this issue on the table, that you suggest the entire committee and our Government is somehow suspect for asking these questions at this point in time.

I must say to you that I think it is wrong to ask the question of what has happened to this country that a congressional committee would inquire about what we are inquiring about. That is what makes this country great. I think a lot of families would ask what has happened to this country that it has taken 20 years to ask these questions. Now, you spent a certain portion of your testimony suggesting that we should answer who could provide better terms of the treaty and you challenge us to do that. That is not the issue here.

I do not argue with the terms of the treaty per se. That is not the question. The question is did the terms of the treaty that you negotiated get enforced so as to follow through on the promises that were made to the American people? Now, you do challenge us to state the evidence, if you will, and I want to try to frame this issue, because I think I am finally beginning to understand it.

Let me read to you, this is a narrative that you had back in 1972 and I believe presented to the Vietnamese. On May 17, 1967, Navy Lieutenant Ronald Dodge was forced to eject from his F-80 jet aircraft in the vicinity of WF421785, approximately 35 kilometers northwest of Vinh, Meinh Province, Vietnam. Lieutenant Dodge reported to his wing man that he was moving up a hill that was surrounded and breaking up his radio.

A 17 May 1967 Radio Hanoi broadcast and a news article from the 18 May 1967 issue of Nang Dang newspaper indicated that Lieutenant Dodge was immediately captured. A postcapture photograph of Lieutenant Dodge being marched through a village was also published in the September 9, 1967 Paris Match magazine. Now, Lieutenant Dodge has never been answered for. He was not MIA, he was POW.

I can read you other cases, John Sparks, June 17, 1969. Private 1st Class Sparks was with his platoon when it was ambushed in central Vietnam. He fell to the ground wounded. Reports were received he had been captured and in May, 1970, a letter of his was located which had been written after capture. He was a POW. To this day, we do not know what happened to him. That is why we are here. That is not a phony inquiry, Dr. Kissinger; that is a legitimate question that remains unanswered.

Now, the terms of the treaty that you negotiated and you yourself in your testimony today have said we were going to get the fullest possible accounting. On January 23, Nixon told the Nation, within 60 days from this Saturday, all Americans held prisoner throughout Indochina will be released. The family of John Sparks believed he would be released. He was not. They believed he was a prisoner, as did our Government. He did not come home.

On that date the President said, there will be the fullest possible accounting for all those who are missing in action. The next day, January 24, you said, we will receive on Saturday, the day of the

signing of the agreement, a list of all American prisoners and both parties, that is to say, all parties have an obligation to assist each other in obtaining information about the prisoners, missing in action, location of graves.

On January 26, during the talk with the National League of Families you stated, I quote, I do not foresee any special problems. We have absolute assurance that all American prisoners of war held anywhere in Indochina will be released. They, the North Vietnamese know that one condition on which we have not compromised is the issue of our men. We will brutally enforce the release of the men on these lists and you said, we do not accept the list as complete or definite.

So the question that has brought us here is one that in a sense was put in front of the Nation appropriately by the Nixon administration. Secretary Laird held press conferences, he held up names of people who were held prisoner that were not on the lists that were given to Senator Kennedy, so there were ensuing press conferences about prisoners and their treatment.

The prisoners became central to the debate and, indeed, the Administration helped push that appropriately. At the moment Americans expected this fullest possible accounting; clearly because we are here 20 years later, that accounting did not happen. I think I am beginning to understand what happened here.

In one of the documents that has been presented to us, I am not at liberty because of the classification to precisely say which document, although I can show it to you so you are aware of it, this was a meeting at the White House and it is a meeting in which one participant suggested to you that there is a requirement to exchange lists of prisoners. Your response was, quote, the important point here is that each side should give the other a list of POWs they hold and not get involved in exchanging lists of people they think each other holds.

Another individual said, nevertheless, we have to be prepared for a big hue and cry from the relatives of the missing who do not appear on the list the North Vietnamese give us. Another individual said, beware the trap we got ourselves into in the Korean War. We said then that anyone not on their lists was presumed to be alive until shown otherwise. This created great anguish for the families of the missing and I spent years wrestling with that problem.

Your response to that was, we could exchange lists of the prisoners that we hold and then start exchanging prisoners and not haggle about who is or is not a prisoner.

Dr. KISSINGER. May I answer that question?

Chairman KERRY. Yes, sir.

Dr. KISSINGER. Of course, Mr. Chairman, you have to recognize that you have thousands of documents in which your staff fishes to find some sentence that can be presented in this manner, and you do not have the time to read the thousands of documents which support the position that I have taken here. Mr. Codinha was kind enough to show me this during the deposition and, therefore, I am in a position to put this into context.

This issue dealt with the following technical problem. The Vietnamese had agreed to give us a list of prisoners. We did not know

who would be on that list. There were some people who suggested that before we got their list, we should give them our list of what we thought should be on the Vietnamese list. My concern was that if we presented our list and it had different names from theirs, it would either give them an excuse to hold back the ones that might be on their list, or it might get us into an endless debate that would delay the release of the prisoners.

Therefore, it was my view that, in order to speed the release of the prisoners, we should get their list, get them to start releasing people on their list and as soon as we had their list, as soon as we knew everything they were going to give us, then we were going to present them our list and pursue discrepancies that we found. And that is indeed what we did.

We received their list on January 27. On February 10-11, we presented the list of discrepancies and our first protest. So this phrase of not haggling had only to do with the technical problem. Do we present our list first and wait, or do we see what they give us and then complain about it? That was the only issue under discussion at that moment.

Chairman KERRY. I suppose, however, Mr. Secretary, the argument could be made that if you had signed the agreements and if they know we are withdrawing and you are then haggling over who is on a list or not, you have lost the leverage of accountability. General Haig and others were clearly arguing that it was important to resolve those differences before you signed the dotted line so that in effect, you moved the haggling. Instead of haggling name for name before the signing, you left yourself haggling name for name until 20 years later and we are haggling name for name today.

Dr. KISSINGER. Senator, we would have been delighted to get their lists before the signing. That was something that they were never prepared to do, and we, therefore, had to make the best arrangement possible. I'm reminded, incidentally, that the discussion to which you referred occurred actually before the signing in principle, and was a theoretical discussion of how we might proceed if there were an agreement.

But, Mr. Chairman, I have seen in the discussions out of this committee an extremely one sided view and I must say, frankly, not fully comprehending discussion of what the residual force in Vietnam represented in 1972.

Chairman KERRY. Of what? I could not hear you.

Dr. KISSINGER. The force that was left in Vietnam that we were withdrawing. We had withdrawn, Mr. Chairman.

Chairman KERRY. I realize you were down to 270,000 troops in November.

Dr. KISSINGER. No, no, no, Mr. Chairman. We were down to 25,000 troops in October 1972. We had withdrawn—

Chairman KERRY. I am talking about when you first tabled the program.

Dr. KISSINGER. When I?

Chairman KERRY. When you first tabled the peace program, the 8 points, 10 points, there were 270,000 troops.

Dr. KISSINGER. Well this is—we're not talking of—this is June 1971.

Chairman KERRY. That is correct.

Dr. KISSINGER. I am not talking about the time that you are talking about, Mr. Chairman.

Chairman KERRY. Well that is when the proposal was tabled.

Dr. KISSINGER. Mr. Chairman, I'm talking about the time that the agreement was concluded. At that time we had 25,000 troops in Vietnam.

Chairman KERRY. I understand. And that is exactly the point I am making, Mr. Secretary, the leverage was diminishing by the day. The capacity to follow through on a full accounting was evaporating.

Dr. KISSINGER. No but, Mr. Chairman, until October 8, 1972, the Vietnamese had never agreed to give any accounting of anything. So the issue that you're addressing did not arise until we were down to 25,000.

Second, Mr. Chairman, you know very well that the people who opposed our policy were accusing us of not withdrawing fast enough. Nothing would have pleased me more than public support saying "do not withdraw so fast because you're losing your leverage." We were caught by our domestic debates, and each side of the debate can blame the other.

But we were caught in the position that to keep public peace, we had to do things which reduced our leverage. And in order to restore respect from the Vietnamese, if we occasionally lashed out, we then inflamed the protesters.

So all this period we had to navigate through our domestic situation. Nothing would have pleased me more than to keep more troops there as leverage. It was judged impossible. And if you look at the Senate resolutions of that period, the debate was not between should we withdraw or should we not withdraw, but should we withdraw unilaterally without getting the prisoners back except in the expectation, or should we do it for prisoners.

That was the issue. May I make one other point. Mr. Chairman, when you called me to tell me that you were starting the inquiry, which you were very courteous to do, you will remember that I told you it was a very important thing to get this issue behind us. And I did not indicate the slightest criticism of the idea.

And as you defined the issue here, I have not the slightest concern. Namely, if the issue is what happened to those that were not accounted for and what do we know about their fate, I think a great service can be done. What I object to is the implication that senior Americans were colluding with this and that senior Americans, knowing that there were prisoners there, obscured their fate. This I object to strenuously.

Chairman KERRY. Well, Mr. Secretary, I agree. You are right to certainly protest that. But it is not this committee or any Senator who has suggested otherwise; it is a former Secretary of Defense, a former negotiator, ambassador. These are distinguished American servants, public servants like yourself, who have said that there was a political exigency there.

Let me finish here if I may, and then we will have a dialog on it, which is what I want to do. I think it is a very important dialog. I accept what you said about the treacherous path that you had to

walk. Indeed the mood of the country was intensified for getting out, absolutely.

Although I would correct you on one thing; the McGovern-Hatfield Amendment, at that period in time, did contain specific provisions for the prisoners. The original one did not, but the final one then did. That was front and center. Prisoners were certainly foremost.

That is really what I am getting at here. That is what is central to this inquiry. The question, following up on your own statement—that you questioned why we should question whether any American official of whatever administration would fail to move heaven and earth to fight for the release of American POWs and for an accounting. Move heaven and earth, these are your words today.

Dr. KISSINGER. Correct.

Chairman KERRY. Now I took the liberty of reading your memoirs to try to be educated about this and understand it. I found only one mention, principal mention, in Volume 2, Years of Upheaval, page 33, where you indeed talked about the 80 people. You said we knew of at least 80 instances in which American servicemen had been captured alive and subsequently disappeared, and the evidence consisted of voice communications from the ground and so forth.

You then say on page 34, we have never received—you put it to Le Duc Tho—we have never received an explanation of what could possibly have happened to prisoners whose pictures had appeared in communist newspapers, much less the airmen we knew from voice communications had safely reached the ground.

Now here you acknowledge the problem. The problem is it disappears. Up until page 367, there is no mention of it again. When you talk thereafter about—I mean you talk of weary haggling on aid, the \$3.25 billion. You talk subsequently about bombing. In fact you say on page 316: All intelligence estimates confirmed that Hanoi was being restrained from large scale hostilities by fear of American reaction.

So American reaction still had an impact on them. This, incidentally, is April 16, 1973, long after we knew that they had not come through on these prisoner lists I talked about. Hanoi failed to produce on February 26 the list of the POWs due to be released the next day. You responded very sharply, quote: We responded very sharply by suspending American troop withdrawals and mine-clearing operations.

And you said to Ron Ziegler: A year from now when I'm out of here they're really going to put it to us, but not for that reason. But a year from now they're going to be tigers, but now they're not ready. The POWs were released on schedule, is your next sentence.

A little bit later there was more discussion of bombing, but all of the discussion of bombing was in the context of their infiltration, never in the context of the full accounting that you said you would move heaven and earth for.

You then start to talk—this is where I said I think I am beginning to understand this. You say that Scowcroft, on March 20, reported to me the now familiar symptoms of presidential ambivalence. You begin to talk about Watergate. If the North Vietnamese

believe we will not act after the POWs are out, an offensive by the end of the year is almost a certainty.

So you were concerned about an offensive, but not about the POWs here. And, in fact, you recommended bombing to deter the offensive, not to get the release of POWs. But you did recommend bombing, notwithstanding that all our POWs were back.

But, again, Watergate asserts itself, many times: But for Watergate we would surely have acted in April. A later page: But our strategy was becoming unhinged, for it was clear we were in no position to carry out the military part of our plan. If we didn't have this damn domestic situation, a week of bombing would put this agreement in force.

Next page: The Vietnamese were beginning to accurately predict that the wounded President now lacked the authority to retaliate against North Vietnamese transgressions.

Next page: Nixon could have taken his case to the American people. In the swamp of Watergate, the President's political strength drained away and this option did not exist.

Now to me that is very dramatic. To me it is a profound statement of what really was happening, that the agreement could not be enforced, that the President's attention was diverted elsewhere, and with it the ability to take these individual cases, or even the willingness.

Now I do not know what you knew further about those cases, which this committee would like to know. But what is very clear, we were willing to move heaven and earth to support President Thieu, we were willing to move heaven and earth to enforce the bombing for the violations for infiltration, but we never talked about moving heaven and earth to have that full accounting and never did the American people learn, never did this come to the Congress. I think it would have been one of the great levers that you had, but it was not there.

Dr. KISSINGER. Mr. Chairman, you simply are not adequately informed about what we said to the Congress, what we said publicly.

Chairman KERRY. Can you show me those public statements? Can you document them?

Dr. KISSINGER. Certainly.

Chairman KERRY. We have found none, Mr. Secretary.

Dr. KISSINGER. It is easy to document.

HENRY A. KISSINGER

October 16, 1992

BY HAND

The Honorable John F. Kerry
Chairman, Select Committee on
POW/MIA Affairs
Room 705
Senate Hart Office Building
Washington, D.C. 20510-6500

Dear Mr. Chairman:

I am submitting this letter for the record in reply to two questions you asked during my testimony on September 22.

1. Public discussion of our continuing POW/MIA concerns after Operation Homecoming in 1973.

At pages 55-6 of the typed transcript for September 22, the following colloquy occurred:

CHAIRMAN KERRY: . . . Now I do not know what you knew further about those cases, which this committee would like to know. But what is very clear, we were willing to move heaven and earth to support President Thieu, we were willing to move heaven and earth to enforce the bombing on the violations for infiltration, but we never talked about moving heaven and earth to have that full accounting and never did the American people learn, never did this come to the Congress. And I think it would have been one of the great levers that you had, but it was not there.

DR. KISSINGER: Mr. Chairman, you simply are not adequately informed about what we said to the Congress, what we said publicly.

CHAIRMAN KERRY: Can you show me those public statements? Can you document them?

DR. KISSINGER: Certainly.

CHAIRMAN KERRY: We have found none, Mr. Secretary.

DR. KISSINGER: It is easy to document.

Beginning in February, 1973, I and other U.S. officials made numerous public statements regarding our dissatisfaction

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with North Vietnam's accounting for our POWs and MIAs, especially for those who were known to have been alive in captivity and those missing in Laos.^{1/} Moreover, beginning in May 1973, both the Senate Foreign Relations Committee and the House Foreign Affairs Committee held a series of hearings and considered legislation directed to the problem of obtaining an accounting for American servicemen missing in Indochina after Operation Homecoming.^{2/} Administration witnesses testified at length at

^{1/} For example, on February 8, Secretary Rogers told the House Foreign Affairs Committee that "we do not regard the Laos list as complete." On February 21, Secretary Rogers told the Senate Foreign Relations Committee that "we continue to be concerned about our men missing or captured in Laos and Cambodia." In his address to the nation on March 29, President Nixon said that "the provisions of the agreement requiring an accounting for all missing in action in Indochina... have not been complied with." In his press conference on April 12, Roger Shields repeatedly stated that "we have not yet received all information concerning our men in Laos and in Cambodia." On April 20, the U.S. issued a public note to Hanoi regarding violations of the Paris Agreement, stating our particular concern about Hanoi's failure to provide information about our MIAs. In his May 3 Foreign Policy Report to Congress, the President stated that we were determined to secure the fullest possible accounting for the missing. In a press conference on June 13, I stated that we are concerned about the "inadequate accounting for the missing in action." On July 29, we issued a public diplomatic protest to Hanoi regarding North Vietnam's failure to provide any information about our missing. In my confirmation hearings in September, I stated that we were "extremely dissatisfied" with Hanoi's refusal to provide additional information about our MIAs and discussed at length our efforts to obtain a full accounting, especially for those men known to have been alive in captivity. President Nixon proclaimed January 25, 1974 to be "National MIA Awareness Day" and called upon all Americans to express their commitment to seek a full accounting for the missing.

^{2/} American Prisoners of War and Missing in Action in Southeast Asia, 1973: Hearings Before the Subcommittee on National Security Policy and Scientific Developments of the House Committee on Foreign Affairs, 93d Cong., 1st Sess. (1973) (hereinafter HFAC Hearings I); Missing in Action in Southeast Asia, 1973: Hearing Before the Subcommittee on National Security Policy and Scientific Developments of the House Committee on Foreign Affairs, 93d Cong., 1st Sess. (1973) (hereinafter HFAC Hearings II); U.S. POW's and MIA's in Southeast Asia; Hearing
(continued...)

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each of these hearings about Hanoi's refusal to provide an accounting for all of our missing servicemen. A review of the 1973-74 hearings shows that almost all of the issues now being considered by this Committee, such as the validity of the statements made by President Nixon on March 29, 1973 and by Roger Shields on April 12, 1973, were thoroughly debated in 1973.

The 1973-74 hearings are especially relevant to this Committee's present inquiry because they show that much of the "evidence" now being described as "newly discovered" was well known and publicly acknowledged not only by Administration officials but also by members of Congress. In particular, the hearings conclusively demonstrate that Congress was fully aware in May 1973 that American servicemen were not only missing, but might still be alive in Indochina, especially in Laos. Moreover, the hearings were fully reported in the press.³

The 1973-74 hearings show that U.S. officials were not trying to conceal the possibility that American POWs might remain in Indochina. Roger Shields and Frank Sieverts repeatedly testified that, although there was no indication that Americans were actually alive, there were over fifty discrepancy cases involving servicemen, such as Lieutenant Commander Dodge, who were known to have been alive at one time and who might still be alive. Moreover, they expressed strong concern about the small number of men released in Laos, especially in light of the large number missing and past hints by the PLF that they held a large number of American prisoners. These public statements were no different from the concerns expressed in the internal government documents to which the Committee now attaches so much significance.⁴ Shields and Sieverts also provided lists

²(...continued)
before the Senate Committee on Foreign Relations, 93d Cong., 2d Sess. (1974) (hereinafter SFRC Hearings).

³"The Kin of Missing Servicemen Push for Action on Their Status," The New York Times, May 26, 1973, p. 26; "All Out Search for MIA's Assured by Representative Zablocki," Tacoma News-Tribune, May 26, 1973 (reprinted in HFAC Hearings I, p. 210-211); "Senators Hear Protest on MIAs," The Washington Post, January 29, 1974, p. A2.

⁴Indeed, as I pointed out in my testimony, I had presented the very same numbers and statistics used in the Eagleburger memorandum of March 23, 1973 in my presentation to Le Duc Tho in February.

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identifying the missing men, including those who were carried on the lists as "captured". Among those listed as captured were Lieutenant Commander Ronald Dodge and Donald Sparks, to whom you referred at page 184 of the September 22 transcript. Excerpts from the Shields and Sieverts 1973-1974 testimony are attached at Tab A.⁵

In the current hearings, Committee members have attached great significance to recently discovered reports prepared in 1973 by the Comptroller of the Department of Defense that listed between 81 and 67 servicemen as "current captured" even after the conclusion of Operation Homecoming and after President Nixon had stated that all American POWs were home. The Comptroller's report has been alleged to be the "smoking gun" proving that U.S. officials were not telling the truth in 1973. The 1973-74 hearings demonstrate, however, that the Administration publicly acknowledged, and members of Congress were aware, that after the conclusion of Operation Homecoming, the government continued to list as POWs servicemen who were known to have been captured but had not been returned. Indeed, the very same DOD Comptroller's report of March 31, 1973 listing 81 servicemen as "current captured," which has been alluded to as the "smoking gun," was printed in the

⁵Out of respect for the privacy of the families, Administration officials did not discuss details of individual discrepancy cases in public testimony. They apparently did discuss such cases in executive sessions. Congress may have some record of what was said in these sessions.

Representatives of the National League of Families also provided Congress on numerous occasions with specific information about individual servicemen, such as Lieutenant Commander Dodge and Donald Sparks, who were known to have been alive in captivity and who continued to be listed as prisoners of war. National League representatives repeatedly stated that they believed some of these men were alive. For example, on May 25, 1973, Joseph McCain, brother of now-Senator John McCain, showed slides of men known to have been captured alive, including Lieutenant Commander Dodge, to a Congressional factfinding delegation in New York City. McCain concluded: "I think all of us here are saying unless there is something done, and hopefully by Congress, those men are going to remain as slides in that machine, and in those photographs, and they are just going to remain question marks." (HFAC Hearings I, p. 134) Accordingly, it cannot be said that individual cases of men who might be still be imprisoned were not brought to the attention of Congress.

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Congressional Record on June 4, 1973.⁴ A report containing much of the same information, prepared by Roger Shields, was also printed in the Congressional Record on May 31, 1973 at the request of Senator Dole.⁵

Moreover, Roger Shields testified on December 5, 1973 and on January 28, 1974 that the Defense Department continued to carry 57 men as prisoners of war. But he explained that the fact that men continued to be listed as prisoners of war did not mean that the government "knew" them to be alive: "The most we can say today is that those men were alive, some definitely captured and the other side knows what happened to them."⁶

The 1973-74 hearings also shed contemporaneous light on the U.S. Government's continued efforts to demand a full accounting for the missing in action after Operation Homecoming. Roger Shields provided a chronology of U.S. efforts to demand an accounting in the meetings of the Four Party Joint Military Team ("FPJMT") in Saigon.⁷ Shields told the Senate Foreign Relations Committee in January 1974 that the U.S. side continued to press the North Vietnamese delegation on the specific discrepancy cases in the biweekly meetings of the FPJMT.⁸ Frank Sieverts testified that the U.S. side had "followed up as intensively as we can every one of those cases. We have raised them with the other side individually, in small groups, and in larger groups." He stated that the U.S. side had provided the North Vietnamese voluminous dossiers on every missing individual with evidence indicating that some of these men were alive and in captivity, but that the North Vietnamese simply put on a blank face and refused to provide any information.⁹ Mr. Sieverts also informed Congress that I had personally raised the matter again with Le Duc Tho in my meeting with him in Paris on December 20, 1973.¹⁰

⁴ Congressional Record, p. S17850 (June 4, 1973) (copy attached at Tab B).

⁵ Congressional Record, p. S17683 (May 31, 1973).

⁶ HFAC Hearings II, p. 29; SFRC Hearings, p. 60.

⁷ HFAC Hearings II, p. 17-18.

⁸ SFRC Hearings, p. 71.

⁹ HFAC Hearings II, p. 27.

¹⁰ SFRC Hearings, p. 71.

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Finally, the 1973-1974 hearings also reveal that families of the missing were frustrated not only with the executive branch but also Congress and the press for not keeping sufficient domestic and international attention on the question of the missing in action. Like the families of the hostages in Lebanon, the frustration of the families was understandable, but it did not mean that U.S. officials were derelict.¹¹ As Senator Fulbright sadly acknowledged to the families, "We know that you have received countless assurances of interest from every level of our Government, but we also know that to many of you such assurances are little solace. It may ultimately be beyond the power of anyone in our Government to give you what you want."¹²

2. The Chairman's "\$64,000 Question"

At page 64 of the September 22 transcript, you asked what I would call the \$64,000 question of the hearings. You said:

"Now, I did not negotiate the agreement, you did. You negotiated the notion that there would be a full accounting, and the question before Americans is the very question you posed yourself: whether we would move heaven and earth for that full accounting. "There is nothing in the record that suggests you asked the Congress of the United States for the right to bomb because they were holding prisoners that they would not give back -- nothing."

At page 184 you asked the question again, in a slightly different form. You said:

¹¹ Mrs. Joseph Dunn, Acting National Coordinator of the National League of Families, told the Senate Foreign Relations Committee on January 28, 1974: "I feel I am not answering with strong conviction that I feel you in Congress are doing everything in your power to clear up the issue. I am beginning to feel, as do most family members, and many concerned citizens in the respective states, that our problem has been Watergated, Agnewed, Richardoned, Energy Crisised, and Mideasted practically out of existence. A strong conviction, yes, but one that was arrived at only after watching and listening to the inaction of Congress since the signing of the Peace Agreement." SFRC Hearings, p. 13.

¹² SFRC Hearings, p. 1.

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"Now, my own impression is that Americans would have reacted differently at that point in time over a debate if someone went to the floor and they were not debating abstractly about accountability for MIA's, but they were debating specifically about, you know, Mr. Sparks or specifically about Ronald Dodge, and somebody came to floor and said, Ronald Dodge was a prisoner. We saw his photograph. We know he was held. They paraded him through the street. He did not come home."

I respectfully submit that the decisive answer to this \$64,000 question is contained in Senator Dole's testimony before your committee on September 24. It is tempting to speculate with 20 years of hindsight on what the response of Congress and the American public would have been if the cases of Ronald Dodge and Donald Sparks had been specifically presented to Congress in 1973 along with a proposal to use military force if they were not released immediately. But Senators Brown and Dole described to you what did in fact happen on May 31, 1973 when Senator Dole put that precise issue to the Senate. As you will recall, the Senate was considering the Eagleton-Brooke-McClellan amendment to the defense appropriations bill, forbidding the use of any appropriated funds to support further U.S. military operations in Cambodia and Laos. Senators Dole and Helms offered an amendment to the Eagleton-Brooke-McClellan amendment, authorizing the President to use force "... if the President finds and forthwith so reports to the Congress that the Government of North Vietnam is not making an accounting, to the best of its ability, of all missing in action personnel of the United States in Southeast Asia, or is otherwise not complying with the provisions of article 8 of the agreement signed in Paris on January 27, 1973, and article 10 of the protocol to the agreement 'Concerning the Return of Captured Military Personnel and Foreign Civilians and Captured and Detained Vietnamese Civilian Personnel'." (Congressional Record, May 31, 1973, p. S17668.)

In support of this amendment, Senator Dole presented a name-by-name list of all the 1,321 U.S. servicemen still unaccounted for in Southeast Asia after Operation Homecoming and in "missing or captured status". That list included Ronald Dodge and Donald Sparks.

Senator Dole also presented to the Senate the entire statement presented that same day by Roger Shields to the Foreign Affairs Committee of the House. That statement specifically referred to the continuing problem of those thought to have been captured alive who had not yet been returned:

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"As for those who are thought to have been captured alive but who have not been returned, let me say that this is perhaps the most agonizing and frustrating issue of all. These are the cases of men who were seen on the ground or whose pictures were released subsequent to capture but who, for one reason or another, have not returned and for who the other side has yet to provide a satisfactory explanation. We do not consider the lists received so far to be complete and accurate accounting for our men. We do have, though, an agreement which provides for all actions necessary to account as completely as possible for all who have not returned or are otherwise unaccounted for. We believe that implementation of this agreement will provide the speediest and most satisfactory answers to our questions." (Congressional Record, May 31, 1973, p. S17683.)

As you know, the Dole-Helms amendment was defeated by a 2-1 vote.¹⁹ The most eloquent argument made against it on the Senate floor was made by Majority Leader Mansfield. He said:

"Mr. President, if the amendment offered by the distinguished Senator from Kansas (Mr. Dole) and the distinguished Senator from North Carolina (Mr. Helms) is adopted, we can kiss the Eagleton-Brooke-McClellan amendment good-bye. The effect will be to nullify what the Senate Committee on Appropriations did without opposition and what the Senate itself, in effect, did by a vote of 55 to 21 on Tuesday last.

"Under the amendment now being considered, the bombing in Cambodia could go on indefinitely, because I note from the news ticker this morning that 'the United States is still identifying missing in action from World War II, a quarter-century ago, and it could take months -- if not years -- for the status of remaining Vietnam MIA's to be settled.'"

"There is no person in this Chamber who is not interested -- if not more interested -- in the missing in action, just as we were interested in the release of

¹⁹ The Senate approved the Eagleton-Brooke-McClellan amendment on May 31. Both houses of Congress subsequently voted on June 29 to cut off all funds for combat activities in North or South Vietnam, Laos or Cambodia.

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the POW's, the return of the POW'S, and the return of U.S. personnel in South Vietnam....

"If Senators want to create more missing in action, let them vote to continue the bombing. If they want to acquiesce in the present policy of the administration to continue the bombing, let them vote for this amendment. If they want to get out of Laos and Cambodia, and all of Southeast Asia, on a lock, stock, and barrel basis, they will see to it that the Eagleton-Brooke-McClellan amendment remains intact....

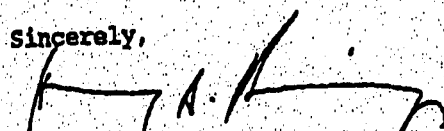
"Mr. President, the only way to deal with this situation is to face up to our responsibility. The only way to do it effectively is to cut the purse strings. And that is what the Eagleton amendment does, because it locks off funds from any and all directions and any and all acts so that if the Congress speaks on this basis, it will mean that we will at long last -- 13 years too late -- get out of Southeast Asia all the way. And, as far as the MIA's are concerned, this Government is making every effort, and will continue to do so, to attempt to identify them. But if we want more MIA's, we should vote for the pending amendment and we will get them, just as we are getting them now in Cambodia."

If we want quicker action as far as the MIA's are concerned, we should keep the Eagleton amendment intact." (Congressional Record, May 31, 1973, p. S17686)

It is very difficult for any of us to put our minds back twenty years and to predict how we would have reacted if your \$64,000 question had been put to Congress and the public in 1973. But I respectfully submit that what actually happened to the Dole amendment in 1973 is a more convincing answer to your \$64,000 question than anyone's speculation in 1992 of how Congress would have responded to your question twenty years ago.

I respectfully request that this letter be made part of the record of the hearings, and that the points made be taken into account when the Committee's report is prepared.

Sincerely,


Henry A. Kissinger

cc: All Select Committee Members

EXCERPTS FROM CONGRESSIONAL TESTIMONY BY U.S. OFFICIALS
IN 1973-1974 REGARDING POSSIBLE PRISONERS OF WAR IN INDOCHINA

Mr. Zablocki. It is my understanding there are some 300 unaccounted for in Laos. In your opinion, what would be your opinion as to the possibility of some or a portion of the 300 that you would expect may be accounted for?

Dr. Shields. Mr. Chairman, I would prefer to address the issue of all our men who are now unaccounted for. These men first of all are unaccounted for, and this means we know very little about them. We do not specifically know what happened to them and we do not have a positive status for these men today. I think that the most important thing now is not to speculate about the chances of men who may or may not come home, but rather to obtain the authority that we need to put our teams into the field to find concretely and specifically what happened to these men....I think if we did that, we would be able to avoid these questions of who may or may not come back.

(House Foreign Affairs Committee ("HFAC") Hearings I, May 31, 1973, pp. 82-83)

Mr. Sieverts. We have called particular attention to cases of men who were previously acknowledged as captured in Laos, or for whom there are indications that they survived shootdowns. Two of the most obvious cases are Air Force Lieutenant Colonel David Hrdlicka, whose capture May 18, 1965 was openly confirmed by the Pathet Lao, and the American civilian, Eugene Drebruin, of Air America, also confirmed as a prisoner following his capture September 5, 1963, who is known to survive as recently as 1966. We continued to hope that lists and information we provided will help convince the LPF to provide additional information on our missing men.

(HFAC Hearings II, December 5, 1973, p. 11)

Mr. Sieverts. Certainly our position is one of expecting and demanding the information on all the men on whom they may have information, not just in Laos but, as Dr. Shields indicated, in all of Vietnam, all of Indochina. We are not in a position now to say how much we are going to get. That is the essence of the question.

Mr. Zablocki. Dr. Shields, repeatedly in your statement you made clear the frustration felt by our representatives and the Joint Casualty Resolution Center in dealing with the Communists. That frustration is certainly understandable and in view of the fact

that there may be some American MIAs who are still alive and, if not alive, nevertheless they are unaccounted for.

(HFAC Hearings II, December 5, 1973, p. 23)

Mr. Zablocki. Does the U.S. government have any evidence to indicate that any of our MIAs may be alive?

Dr. Shields. Mr. Chairman, we know, of course, of the two civilians that Mr. Sieverts has mentioned, one in South Vietnam and one in Laos, and that they are alive. We have information that shortly after these men became missing, were prisoners in the case of Lt. Col. Hrdlicka and Commander Dodge, that some of them survived the initial incident and were indeed captured. In most cases, this goes back a number of years, 1965-1966, and we have heard nothing since that time. The most we can say today is that these men were alive, some definitely captured, and the other side knows what happened to them. If the men are not alive today, we certainly should receive information about what happened. If they are dead, we should receive the remains.

Mr. Zablocki. The number is how many?

Dr. Shields. Today, I believe we carry 57 men as prisoners of war and I can check that for the record.

Mr. Zablocki. Would you do that?

Dr. Shields. Yes, I will. A number of those have been identified as having died in captivity. We have not changed their statuses as a result of the information from the other side, and these men are still carried as prisoners of war by the military services. So the number of men who might actually be alive is unknown. And, I might add with regard to some of the missing, that we have good reason to believe that some of those carried in a missing status also survived the initial incident, and what happened afterwards is unclear to us at this time. But certainly a large number of men can be reported on by the other side. We should be able to receive information one way or the other as to what happened to them. . . .

Mr. Wolff. I understand there are some 80 in that status.

Dr. Shields. That is incorrect, Congressman Wolff. I have the figures on that. I can give you a good figure on that now. We carry 59 men today as prisoners of war. A number of men we carried as prisoners of war were reported as having died by men who have returned. . . .

(HFAC Hearings II, December 5, 1973, p. 29)

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Mr. Sieverts. We speak on the subject with full voice and all I can do is invite attention to the actions we have been carrying out, which Roger Shields and I have described. In the four-party joint military team, for example, in which we negotiate directly with the other side, we have used tactics designed to catch their attention. When they killed one of our men, the head of our team took the flak jacket of the man who was killed, which was stained with blood and threw it on the table. I think it got a small line near the bottom of the story. It was not widely reported. It is not for lack of voice on the Senate and House floors - but there is a broader sense of perhaps time has gone by. I think this is what so concerns and frustrates the families, what we are hearing this morning, and it frustrates me, I must say, in the State Department. There simply is not as much public interest in this now as there was, for example, a year and longer ago in the case of both the MIAs and the POWs. Interest has died down and we share the hope of the families that this hearing will turn that around. . . .

Dr. Shields. Sometime ago the Defense Department, in an effort to put some public light upon this issue and to further publicize these questions we have been talking about this morning, invited the officers and the board of the National League of Families over to the Defense Department. One of the League members at that time is present here today. The Secretary of Defense escorted these officers of the National League of Families through his dining room and surrounding the table in his dining room were 14 easels with very large displays with the names of 14 representative men of whom we know the other side has information. These men were alive on the ground in some cases. The foreign news broadcasts, the North Vietnamese broadcasts, press and so forth, had made statements about these men. The mother of one of those men is in this room here with us today also. Present at that time was a very large number of journalists, and they toured these displays. Each display contained a photograph of the man on one side, a map of Southeast Asia on the other side, together with the pinpoint location and description of that man's loss. That coverage never saw the light of day. It was dead as soon as everyone left the room.

(Senate Foreign Relations Committee ("SFRC") Hearings, January 28, 1974, p. 60)

Senator Pell. Aren't there still 50 men listed as POWs? How many are presently listed as POWs in our books?

- 3 -

Dr. Shields. Senator, we now have 57 men who are listed as prisoners of war as of January 19, 1974.

(SFRC Hearings, January 28, 1974, p. 60)

Senator Pell. Maybe you would prefer not to reply to this question, Mr. Sieverts, but you know more on this subject and are more emotionally involved than any other man in the government. Would you care to give an estimate off the top of your head of what percentage of people, in your view, might still be alive among the MIAs? Would it be less than 10% or would you rather -

Mr. Sieverts. I would rather not try to answer that, Senator. It is the very essence of the question.

Senator Pell. Right.

Mr. Sieverts. We want to know. It does not matter whether it is one, ten, a hundred, or zero, we just want to know so I would rather not speculate on the figures.

Senator Pell. I understand and respect your thoughts in this regard. But is there an awareness, too, that there will be many people who will have disappeared, of whom there will be no record whatsoever?

Mr. Sieverts. I think all of us are well aware of that. I am sure all of the families here are well aware of it. Each family, however, hopes or feels that maybe theirs is the exception. But in general, we know we are not going to find out about all these people. But we also know that we haven't had an accounting for any of these people, so until we start, it is hard to say that it is going to be so many or so many more. We want to get started. We want some information before we decide what we are going to be satisfied with.

(SFRC Hearings, January 28, 1974, pp. 66-67)

Written follow-up question for the record of Senator Case for Mr. Sieverts (undated):

Has the President been advised that our government still lists over 50 men as POWs (including a man who has written home and some that were photographed in captivity), in light of his continuing public statements that, "All POWs are home"?

Answer. The President is well aware of North Vietnam's failure to account for our men. In his State of the Union message, the President said: "We will continue to insist on full compliance

with the terms of the agreements reached in Paris, including a full accounting of all our men missing in Southeast Asia."

(SFRC Hearings, January 28, 1974, p. 70)

Chairman KERRY. We have found, Mr. Secretary—let me be fair here—we have found statements where the President said we are still worried about the full accounting, but it was for MIA. The problem is there was this distinction drawn between MIAs and those that we believed were POWs.

Dr. KISSINGER. In our minds, Mr. Chairman, we considered the two categories, prisoners or missing in action—until we had a confirmed report of prisoners, we grouped everybody who we did not know to be a prisoner under missing—

Chairman KERRY. I read you a confirmed report.

Dr. KISSINGER. Under a missing in action.

Chairman KERRY. I read you—you gave this confirmed report to the Vietnamese.

Dr. KISSINGER. Mr. Chairman, you are reading me a report that I gave to the Vietnamese. So it's entered, I wrote about this in my memoirs 10 years ago, so it is obvious we were not trying to hide it.

Chairman KERRY. Sir, the question is not whether it was hidden. The question is whether we got the full accounting, and if we did not, why? The question is did we move heaven and earth, as you said we would. Were we brutal in our response, as you told the families we would be. The answer is no.

Now I have suggested that perhaps the reason is not that you were perfidious, but that the presidency crumbled, that there was not a capacity. If you think it is otherwise, I would love to know.

Dr. KISSINGER. Yes, I think it's otherwise, Mr. Chairman. First of all, Mr. Chairman, it is no great achievement to go picking through bureaucratic documents and use one sentence to prove what the motive was. Nobody can believe—

Chairman KERRY. Sir, this is not a bureaucratic document. This is an American serviceman who was held as a prisoner in Vietnam.

Dr. KISSINGER. No, that's not what I'm talking about, Mr. Chairman. You know that I presented these cases to the Vietnamese. Now when we recommended bombing to the President of the United States for violating the agreement, it was the fashionable thing among the protesters to say we were fighting for President Thieu and we were not fighting for Americans. It is also said, then, that we betrayed Thieu. So almost any argument that serves the purpose of undermining the credibility of the Government will serve.

But it stands to reason, Mr. Chairman, that if we had resumed military operations and if it had led to the negotiations, which in fact took place, the result would have been exactly what happened in the negotiations that took place, namely an insistence on the re-affirmation of all the prisoner conditions, which we did do when we negotiated with them.

And therefore to pick around in a document and say this was said to President Nixon and this was not said is totally irrelevant. We were concerned about the missing in action. We were certainly more concerned about Americans than we were about President Thieu. And had we resumed operations, we would not have settled without having solved every outstanding issue that was before us.

On the impact of Watergate, I think it is only fair to point out that the opposition to using any kind of military force strongly antedated Watergate. If you read the media of February and

March when the Administration was repeatedly saying that it preserved the right to enforce the agreement, we were constantly told that we had no right to enforce a cease-fire. And it was something we always objected to on the ground that under those conditions any time America ends a war and makes a cease-fire, it has, in effect, surrendered because it cannot enforce what it has fought for.

So that was the view. Now it is true in my memoirs I mention that the opposition, which had already passed 35 resolutions in 1972, became even more active in 1973. And that it is quite possible that President Nixon did not have the same strength to resist that pressure as he might have had without Watergate.

He never said that to me. I think the position he took, which was that he wanted one more negotiation before considering military operations, was a perfectly reasonable position. I had a somewhat different view, but I had always a somewhat more professorial view and he had a somewhat more understanding of the political situation; that's why he was President.

So it is simply not correct to say that we would not have insisted on the POWs in a resumption of military operations. It would have been a principal objective.

Chairman KERRY. Well the reason I ask it, Mr. Secretary is—and my time has expired—it is because I have a deep concern that something happened that may well have been out of your capacity to impact or anybody's. And this issue has been mistreated, I think. The POW/MIA issue was laid out in a context to the families and to others, and the fullest possible accounting was apparently one of the achievements of the Accords. Indeed, it was there in article 8(a) and 8(b).

The fact is we are here 20 years later because it has not happened. So by definition, something went awry. Now you say that this issue was raised. I cannot find, and the committee is going to struggle to find, the record that shows us where this was as front and center after the signing as it had been in the preceding 4 years.

Now you say you raised it when you went to Paris. Let me read the verbatim transcript of your meeting with Le Duc Tho in Paris.

Dr. KISSINGER. Before you read things from a transcript, could I get a copy of it here.

Chairman KERRY. Absolutely. You have these documents; they were given to Mr. Cutler yesterday.

Dr. KISSINGER. Could I ask—

Chairman KERRY. Page 34.

Dr. KISSINGER. Could I ask Ambassador Bremer, who was my associate—and we only received these documents yesterday afternoon—can he sit next to me?

Chairman KERRY. Absolutely, Mr. Secretary.

Dr. KISSINGER. Without there being leaks that he is helping me because I am guilty.

[Laughter.]

Chairman KERRY. I do not think there will be a leak about that. I think you just stated it.

Let me just read this—and again, I am asking this because it sheds light on what or was not on the table. All we can do is take the record in front of us. This is with respect to Laos.

You are talking to Le Duc Tho, and Le Duc Tho says, Minister Thach has told Ambassador Sullivan that we will help you coordinate with our ally in Laos in getting information about the missing in action in Laos. As to those in Cambodia, we will wait until the solution and we will deal with this question. Dr. Kissinger: You don't understand the point I am making. Le Duc Tho: Have I well understood you that when you make a statement—

Dr. KISSINGER. You've lost me.

Chairman KERRY. Page 34.

Dr. KISSINGER. Give me a minute to read the context.

[Pause.]

Dr. KISSINGER. OK. Please go ahead.

Chairman KERRY. Let me jump down. It says, Le Duc Tho: We have to cooperate with our Lao friends. As to the statement you will make for the purpose of public opinion, we will say nothing.

Secretary Kissinger: Yes, but also for the purpose of reality, if you will help us, it will be helpful if you will give us your assistance without making a public statement about it. You have often told me you could do things that are not written down.

Le Duc Tho: I agree, but I have to add we have to cooperate with our Lao friends because it is their sovereignty.

You then say: I understand. Now, we would like a sentence from you, and I don't understand why you can't give it to us, which says that, quote, the DRV has been informed that there are no U.S. prisoners being held in Laos, that all the prisoners held in Laos have been released. It would be very important for us, unquote.

So here you are in May with Le Duc Tho saying not what happened to John Sparks, or what happened to so-and-so, we need an accounting, but saying, give us a sentence that says there's nobody alive in Laos, it will be helpful to us.

Dr. KISSINGER. You know, Mr. Chairman, it is a really bizarre situation when the people who were parading and keeping us from doing the things we needed to do are now telling us what sentences we should have used after all our leverage was taken away from us.

Chairman KERRY. Sir, this is a filibuster. I am not doing that. I am asking you why it is that you did not present the case but said just give us a sentence that there is no one alive.

Dr. KISSINGER. I presented the case, Mr. Chairman, in February. We—

Chairman KERRY. Why would you have been satisfied with a sentence?

Dr. KISSINGER. I wasn't satisfied, Mr. Chairman. I was dealing here with a man who knew reality. I had no means of pressure left.

I had no economic aid left. The Congress was in the process of passing a series of resolutions that banned military action, and all I could do was to bluff my way through this due to the actions that were taken by the Congress of the United States. And as I said in my statement, it does not behoove the Senate to blame me for what sentences I may or may not have used in circumstances which would have been totally—

Chairman KERRY. But this goes to the gravamen of the issue, Mr. Secretary. It really does. If you were to be satisfied with a sentence that says no one is alive, it'll help us, rather than to suggest to him that if you don't tell us what happened we can resume the bombing, there's a difference about what was being done about POWs, and the fact is that subsequent to this, despite the fact that you sit here now and say to me, our leverage is being taken away, you recommended bombing after this meeting to enforce other elements of the cease-fire, but not POWs.

Dr. KISSINGER. Mr. Chairman, you're just playing with documents.

Chairman KERRY. I'm playing with the facts.

Dr. KISSINGER. Of course you can take the position that people who were meeting with families all during the war, who had every incentive to want these and every obligation to get these prisoners returned were bombing for one reason rather than another reason.

I tell you, Mr. Chairman, if we had had the authority, we would have had another major negotiation. In the context where every newspaper, where every congressional committee was preventing us from exercising the leverage, it is very easy to second-guess 20 years later things taken out of the whole stream in which you don't even know what I said to Le Duc Tho in private conversations because the record won't show it, because generally when I threatened Le Duc Tho I did not do it on the record.

Chairman KERRY. Well, Mr. Secretary, I think the question that most Americans would ask is, I mean, look I didn't ask for this job. I'm here because 20 years later this question confounds America and the fact is that there are people who are listed as POWs who are not home, or who did not come home, and we do not know what happened to them.

Now, I did not negotiate the agreement, you did. You negotiated the notion that there would be a full accounting, and the question before Americans is the very question you posed yourself: whether we would move heaven and earth for that full accounting.

There is nothing in the record that suggests you asked the Congress of the United States for the right to bomb because they were holding prisoners that they would not give back—nothing.

Dr. KISSINGER. Mr. Chairman, for somebody who opposed any military operations, who was accusing the Government for deliberately prolonging the war, it does not come as good grace to make this accusation. If you are talking, sir, about the question of what happened to the prisoners, I'm on your side, and I also want to point out, I did not start this debate. I kept meeting with protesters all during the war because I thought we had to unify this country. But there is no doubt that the Congress knew that we looked at bombing as a means of enforcing the agreement.

Chairman KERRY. On the POW?

Dr. KISSINGER. On everything, sir. Do you imagine that we would have resumed military operations and not asked for the POWs?

Chairman KERRY. You see, the question I asked—and I know this is all hard, and I am not comfortable with it, I will tell you that, but you know, notwithstanding the fact that I indeed opposed the war and was one of those suggesting there were ways to get out, I was working with families of POWs then, too, and every statement

I ever made, or we ever made, included the notion of getting a full accounting and the return of the POWs. I never knew that they might be holding somebody still. I do not think the American people were ever informed of that.

Now, let me let my other colleagues have an opportunity. We are taking a longer question period here today.

Dr. KISSINGER. But I can't let it stand that we did not know they were holding POWs. We knew we had inadequate accounting for the missing in action, and I repeat, Mr. Chairman, it is totally inappropriate for those who prevented any sort of military action to blame those of us who wanted to enforce the agreement because they can find this or that document that gave one or other reason. We would have enforced the agreement in all its provisions and no other sensible interpretation is possible.

Chairman KERRY. Let us come back to that later, if we can. Senator Smith.

Vice Chairman SMITH. Thank you, Mr. Chairman. Dr. Kissinger, the statement that you made I found to be very insightful and very enlightening, and I think you have answered many questions that some of us have had on this issue, and I think that maybe it should have been made sooner. I think perhaps it has been in some of your memoirs and documents, but in terms of focus, it really has not happened.

You say here on page 3 of your statement, the middle of the page, I have no proof whether Americans were kept behind by Hanoi. The Vietnamese are capable of such a cynical act, even lying about it. If prisoners were held back, there can only be one guilty party—the Vietnamese communists who flagrantly and unforgivably would have violated solemn and clear-cut agreements, and if such a betrayal is found by this committee all Americans should unite and demand redress.

Let me respond to that in this way. I think the first part of that statement I found—I have no proof—I do not dispute you on that point, but the point I want to make is that there were, based on intelligence and information that were provided to the negotiators at the time, there seemed to be—there definitely was a strong feeling among all of the intelligence and defense people, collectors of data, that the list was incomplete—

Dr. KISSINGER. Absolutely no question.

Vice Chairman SMITH. And I'm not trying to challenge you on that. I just want to make that point.

Dr. KISSINGER. No, no.

Vice Chairman SMITH. Now, the issue that you raised about the protests and the problems confronting the Administration in the war, I totally 100 percent agree with you, and I think it contributed to the fact that we did not do better militarily and probably would have won the war had it not been for that, and I think you very clearly lay that out.

But let me move to the agreement and the Paris Peace Accords, and try to get a closer understanding of what the Vietnamese thought from your perspective, especially regarding the return of prisoners and the possible economic aid that was out there. Why did we not get a full accounting? The accords were signed by, basi-

cally, an agreement of the two parties, but the implementation of those accords as I see it evolved as you have pretty well stated.

What you agreed in principle to do they did not do, especially regarding POWs and MIAs. Now, why did we not get the full accounting? I think that is really why we are here, or we would not be here.

I have a quote, and I think it has been put up or will be put up here just for the benefit of the press, but it was from Philip Habib, who made the remark back in 1976, but he was, of course, a very respected diplomat who unfortunately passed away recently who was a member of your team.

He said in one of the first lists of negotiating points put forward by the North Vietnamese, the communist side bracketed the release of prisoners with what they described as U.S. responsibility for war damage in Vietnam in a single numbered point. I know of no instance in which an adversary so openly treated this humanitarian problem in this way. We recognized from an early date what we were up against.

Now, Phil Habib, I know, was one of your trusted assistants, and I think what—as you read this statement, it seems to me early on there was a realization by the team that these guys were going to be pretty tough and that they expected to have war reparations, economic aid, whatever—however you want to frame it, and to use the term bracketed as Habib used seems to me to indicate linkage.

Now, first of all, is Habib accurate in what he said in 1976, referring to 1973, that early on the Vietnamese were bracketing this economic aid with POWs?

Dr. KISSINGER. Phil Habib, who was one of the great Foreign Service officers that I have known, was part of the previous negotiation also. There were two negotiations going on.

There was the one in the Hotel Majestic, which was semi-public, and then there were the secret negotiations which I was conducting. Habib must have been referring to the public negotiations. In the negotiations that I conducted, it did not occur in this manner.

In the negotiations which I conducted, we were going always through two stages very laboriously and very slowly. We first wanted to negotiate a statement of principles in which both sides agreed on the objectives, and then our original intention was to move the implementation to the Hotel Majestic where all the details could be worked out.

So in the negotiations that I conducted, Senator, the issue of economic aid did not really become a very live issue until after the agreement in principle, or together with the agreement in principle, where it broke open on October 8, 1972.

Vice Chairman SMITH. So privately they were not using this kind of language.

Dr. KISSINGER. Privately, you see, the problem was they were counting a great deal on our domestic opposition, so they were going extremely slowly in the negotiations. In fact, for the first year-and-a-half they didn't move at all and were just reading me stories from the mock-heroic saga of Vietnamese independence struggles against various people.

Then, in May 1971, there was a beginning of a movement of talking about principles. Again, I'm in the strange position that your

staff has more documents than I do. In fact, it has all the documents, and I have very few.

Vice Chairman SMITH. I understand.

Dr. KISSINGER. So I'm saying, your staff can check. I do not believe the economic issue was discussed in the first block of serious negotiations which took place between May 1971 and November 1971.

In the 1972 negotiations, economic aid was discussed, but we always kept it separate from the May negotiations.

Vice Chairman SMITH. I am not trying to pin you to a document or hold you to any one portion of a line that may have been said.

Dr. KISSINGER. I'm just trying to tell you what my memory is.

Vice Chairman SMITH. Right, I understand, but perceptionwise, I just want to be clear. You are saying that your perception of the Vietnamese, you cannot look into—but I wish we could look into the Vietnamese mind, but your perception is that privately the Vietnamese were not taking the position that there should be linkage between economic aid and American POW release.

Dr. KISSINGER. Let me give you my perception, Senator. We Americans look at these things as legal obligations, and we say, it's their legal obligation here.

The Vietnamese have survived for 1,000 years, the only people that survived under Chinese rule and maintained their identity, by a monomaniacal obsession with themselves. They are heroic. But heroes are no joy to deal with, and so their basic position is that they are going to get what they're going to get. And I can tell you from my personal experience, as I started out, Senator, in 1967, like many of my colleagues at Harvard, thinking that if we stopped the bombing and started a negotiation—and in fact I was involved in one of these negotiations for President Johnson.

Then it became increasingly clear to me that the only time the Vietnamese moved at all was when a balance of forces existed in a certain way. Here in this country we were always attacked if we took any military step. When we did nothing, they were obnoxious.

When I met Le Duc Tho after the B-52 bombing, I thought he had discovered a physical relationship to me. He couldn't keep his hands off me.

[Laughter.]

Dr. KISSINGER. So what I'm telling you is this, Senator: They were going to try to get what they could get.

Vice Chairman SMITH. Sure.

Dr. KISSINGER. They were not going to wave a document at us and say "we have a legal obligation here." And in fact they never did it.

Vice Chairman SMITH. What I'm trying to establish here is very simply that if, in the Vietnamese mind—if Article 21 and Article 8(a) and (b), especially (a), were linked in the Vietnamese mind, and that was their motive all along, and they mislead you, then you can see why the issue may still be out there.

Now, before you respond, let me just give you Vernon Walters' impression, who was the interpreter.

Dr. KISSINGER. Great man.

Vice Chairman SMITH. He said that—when Mr. Codinha, or whoever the questioner was, asked, was there ever any effort by the

North Vietnamese that you were aware of to link the subject of our payments of reparations to them with their release of our prisoners?

Answer: reparations were sine qua non for peace. Return the prisoners for everything.

Question: from the North Vietnamese perspective, you mean?

Answer: Yes.

Question: So there's no question that Dr. Kissinger was aware of the North Vietnamese desire to link reparations with the release of U.S. prisoners.

Answer: Not in my mind.

Question: And you say that because you saw Dr. Kissinger discussing this subject with the Vietnamese.

Answer: I was translating what he was saying into French, and they were translating back what they were saying into English.

Dr. KISSINGER. Look, General Walters is a great American and he has every right to interpret Vietnamese motives. I don't question that the Vietnamese would have used every pressure on us that they could to get economic aid. The fact is that they never did.

The fact is, at the crucial negotiations—I forget now whether General Walters was present in the final phase; we'll have to check that—I certainly told them innumerable times that we were not paying ransom, we were not paying reparations, and they have never used it. They never said, "you owe us economic aid, and therefore we are holding prisoners." If they had done it, I wouldn't have been astonished.

Vice Chairman SMITH. I know what you are up against. What I am trying to establish is what was in their minds and what they were gunning for, what they were up to, because I think if they felt that there was linkage and they felt in their mind that there was linkage, and if comments were made that may have led them to believe that, or whatever, then that problem still exists today in the sense that we never got—they never got reparations, we never got all of the accounting that we asked for, and I might add—

Dr. KISSINGER. But they broke every other provision of the agreement. It's sort of a weird thing to say we owe them reparations—

Vice Chairman SMITH. I did not say that.

Dr. KISSINGER. For something that they never carried out.

Vice Chairman SMITH. Wait. Wait, don't characterize—listen, there is nobody that was a harder anticommunist than me, or a hard line conservative in the Senate or the House than Bob Smith. That is not what I am saying. I know you did not mean to imply that.

Dr. KISSINGER. No, I didn't mean to imply that.

Vice Chairman SMITH. But I am just trying to say in their mind what it is that caused them to link this.

Now, let me just turn to the actual signing of the agreement. Some of this you got into with Senator Kerry.

Dr. KISSINGER. May I just make one brief point, sir? Through 4 years of negotiating with the Vietnamese and meeting with the peace movement here—to which I have no doubt you don't belong—but the peace movement kept creating the impression that the negotiations were sort of like a detective story where the Vietnamese were throwing out vague clues and we had to guess at the

answer, and if we missed the answer, then we had hurt their tender feelings to a point where they withdrew.

In my experience with the Vietnamese, when they want something, they say it brutally. When they wanted to settle, they settled fast. When they didn't want to settle, there weren't any vague clues around there.

If that had been their point, if they had come to us 6 months later, a year later, and said "we've got 50 prisoners which we found, it'll cost you \$2 billion," I would have been beside myself. But that would have been the Vietnamese. I would have understood them. These are the ones I knew.

They've never made that point. But I don't want to second-guess what's in their mind. It would still be illegal and outrageous.

Vice Chairman SMITH. Well, my peace movement would have been to make them a parking lot and end the war, but unfortunately that did not happen.

But turning to the agreement of the exchange of the lists, Dr. Kissinger, you had tried to get lists and we know that they steadfastly refused that. So the lists were turned over on January 27 around, on, or about the time of the signing of the accords. And somewhere I have a chart with a list of the analysis—I am going to be able—I am going to have to see that, unless you have a copy for me. The DIA analyses of this list were 2 days after the lists were turned over to you. And the point here is that as we go across U.S. personnel listed as MIA by DIA who are not either alive or dead on the lists, a total of 1,277, and the ones in the so-called discrepancy cases or ones POW last known alive where you have more definite information were the ones that we took up with the Vietnamese.

[The information referred to follows:]

17850

CONGRESSIONAL RECORD—SENATE

June 4, 1973

the turn-around is very encouraging. Preliminary indications are that this downward trend is continuing in the current Fiscal Year. The improved situation is undoubtedly a combination of many factors, not the least of which has been the initiation of numerous programs designed to improve the quality of life for the individual service member. These programs include: (1) providing real equality in opportunity for advancement, enhance job satisfaction, and insulate a sense of professionalism and pride in service. In addition, improved control methods in personnel acquisition and management have permitted the Services to obtain and retain higher quality personnel in terms of individual skills and motivation. Some of the innovative programs that have accompanied the movement to an all-volunteer armed force have been criticized as indi-

active of an atmosphere of general pessimism and lack of discipline. This is not accurate. The changes that have been made are intended to recognize the fact that our service personnel do not live in a vacuum and should—consistent with their discipline, health, morale and welfare, be able to enjoy the various recreational activities and outside interests available to their civilian counterparts. During the transitional period, it is expected that these policies will continue to be closely scrutinized and will be the subject of continuing debate.

The effort to make service life more attractive and to eliminate valid sources of dissatisfaction has been coupled with a renewed emphasis on the traditional military values of professionalism, dynamic leadership and reliance on the chain of command. The emphasis is reflected in a decentralization of control which requires the non-commissioned officer corps to fulfill its traditional role as the backbone of the Armed Forces.

The maintenance of morale and discipline in the Armed Forces is of paramount importance to the Department of Defense. With the stabilization of the military establishment, it is confidently expected that the status of discipline will continue to improve and will ultimately be reflected in the creation of the finest all-volunteer armed force in the world. It is hoped that the information provided will prove helpful to you. Your concern in this matter is shared by the Department of Defense and your continued interest in the well being of the men and women of the Armed Services and in matters of national defense is very much appreciated.

DEPARTMENT OF DEFENSE—NUMBER OF CASUALTIES INCURRED BY U.S. MILITARY PERSONNEL IN CONNECTION WITH THE CONFLICT IN VIETNAM, JAN. 1, 1961 THROUGH MAR. 31, 1973

	1961-62	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973 to date	Total
A—CASUALTIES RESULTING FROM ACTIONS BY HOSTILE FORCES													
1. Killed.....	20	53	114	1,115	4,122	7,482	12,438	2,126	3,483	1,087	193	11	36,444
2. Wounded or injured:													
(a) Died of wounds.....	1	5	4	168	576	978	1,984	1,184	582	160	23	3	5,161
(b) Hospitalized.....	43	23	52	2,388	15,139	22,370	46,799	32,940	15,211	4,767	587	21	153,312
(c) Hospital care received.....	38	18	31	2,068	12,957	20,664	46,622	37,276	15,432	4,188	634	34	140,341
(d) Hospital care not received.....													
3. Missing.....	28	28	21	150	307	984	389	118	104	132	83	16	2,330
(a) Died while missing.....	2	2	1	10	19	11	21	7	1	6	10	1	1,164
(b) Returned to service.....													
(c) Current missing.....													
4. Captured or interned:													
(a) Died while captured or interned.....	1	1	1	1	3	4	17	5	1	1	1	1	21
(b) Returned to service.....													
(c) Current captured or interned.....													
5. Deaths:													
(a) From aircraft accidents/incidents:	94	23	30	111	180	173	230	186	88	47	66	23	1,177
(b) From ground actions:	7	15	28	88	125	287	521	636	319	215	130	1	4,117
(c) From other causes:	11	29	79	1,176	4,948	8,915	13,718	8,811	3,523	1,989	108	8	41,517
Total deaths.....	42	78	107	1,300	3,008	3,270	14,569	6,414	4,223	1,350	300	30	65,968
B—CASUALTIES NOT THE RESULT OF ACTIONS BY HOSTILE FORCES													
6. Current missing.....													117
7. Deaths:													
(a) From aircraft accidents/incidents: ..	6	3	11	41	180	173	130	186	112	32	34	6	794
From wing.....					68	125	287	423	426	229	84		1,354
Helicopter.....	13	28	28	268	723	1,118	1,438	1,944	1,380	728	130	8	7,181
(b) From other causes.....													
Total deaths.....	23	38	48	309	1,043	1,490	1,910	2,113	1,594	968	254	14	10,363

1 Sum of Items 1, 2a, 2b and 4c.

Source: Department of Defense GAO (Comptroller) Memorandum for Information Operations, Apr. 4, 1973.

DEATHS ATTRIBUTABLE TO DRUG ABUSE—VIETNAM

	DOD Number
1970:	
August	8
September	7
October	8
November	18
December	10
1971:	
January	9
February	10
March	2
April	3
May	4
June	1
July	2
August	3
September	0
October	0
November (4 Heroin; 1 Chloroquine)	8
December (Heroin)	2
1972:	
January (Heroin)	1
February (Heroin)	1

March (Heroin)	1
April (Heroin)	8
May (Heroin)	2
June (Heroin)	3
July (Heroin)	1
August	
September	
October	
November	
December	
1973:	
January	
February	
March	

U.S. ARMY VIETNAM, ASSAULTS WITH EXPLOSIVE DEVICES

	Actual assaults	Possible assaults	Total	Fatalities
Calendar year:				
1969	86	30	126	17
1970	289	62	351	14
1971	222	111	333	12
1972	27	31	58	3

- ACTIONS TAKEN TO REDUCE DEATHS**
- Limiting the access to grenades and similar explosives to personnel in a combat environment who have a definite need for them.
 - Tightening accountability procedures.
 - Using announced and unannounced inspections.
 - Improving security procedures for storage.
 - Opening and improving existing channels of communication between officers/NCOs and E4s.
 - Encouraging use of existing outlets for expression of grievances, e.g., IG, open door policy, human relations council, etc.
 - Intensifying training on the lethal nature of grenades and other similar explosives to assure full understanding of their destructive potential.



DEFENSE INTELLIGENCE AGENCY
WASHINGTON, D.C. 20301

29 JAN 1973

8-3,097/DI-6

MEMORANDUM FOR THE SECRETARY OF DEFENSE

SUBJECT: North Vietnamese/Viet Cong Prisoner Lists

1. The enclosure provides a summary of the number of U.S. prisoners reportedly alive and/or deceased in North and South Vietnam in terms of the Defense Intelligence Agency status. The figures presented vary slightly with official Service casualty statistics.

2. Figures provided are the result of analysis of prisoner lists provided to U.S. officials by the North Vietnamese and Viet Cong representatives on 27 January 1973.

1 Enclosure
Analysis of Enemy Lists
on U.S. Personnel (S/NFD) 1 Cy

W. P. ...

January 29, 1973

ANALYSIS OF ENEMY LISTS ON U.S. PERSONNEL*

	USA	USN	USAF	USMC	CIVILIAN	TOTAL
U.S. Personnel Listed as Alive and to be Returned	76	135	318	26	22	577
U.S. Personnel Listed as Died in Captivity	23	9	17	8	7	64
U.S. Personnel Listed as PW by DIA Who are not on Either the Alive or Dead Lists	21	27	22	3	14	87
U.S. Personnel Listed as MIA by DIA Who are not on Either the Alive or Dead Lists.	344	137	682	101	13	1,277

*Lists also includes:

- 8 Foreign Nationals who are alive and will be returning.
- 6 Foreign Nationals listed as died in captivity.

DIA Analysis of Americans Unaccounted for in Southeast Asia*

February 4, 1992

Country of Loss	PW/ MIA	KIA/BNR	Total
North Vietnam	348	233	581
South Vietnam	450	625	1075
Laos	333	189	522
Cambodia	37	46	83
China	4	2	6
Total	1172	1095	2267

* Status as of Homecoming

* Exhibit 19 to Select Committee deposition of Chuck Trowbridge, Deputy Chief of DIA's POW/ MIA Office provided by The Office of the Assistant Secretary of Defense.

Vice Chairman SMITH. Now, did our Government take up the question of the 1,277 where there was no proof that they were dead? Were those 1,277 involved? Because I want to point out that these 1,277 are another group out there beyond the 1,100 and some who were listed by our side that we believe were KIA based on our information. This is another 1,277 who at the time, from the intelligence that our people provided for the negotiators, believed we did not have any explanation. We had no explanation. We believed—we had nothing to indicate they were dead, so therefore we had to assume that they could be alive. Now, what about those 1,277 people?

Dr. KISSINGER. Senator, I have two problems. One is I can't read this, and the other, I don't remember. Otherwise, I'm in good shape.

[Laughter.]

Vice Chairman SMITH. I would expect you to remember the number.

Dr. KISSINGER. But let me answer you to explain how this worked in practice. I do not pretend to have been an expert on the breakdown of all the various categories. The way it generally worked was this: I had enormous confidence in people like Admiral Moorer, who was Chairman of the Joint Chiefs of Staff at the time, and if any concrete issue came up on numbers I would turn to the chairman and to the Defense Department which was primarily responsible for the details. Secretary Laird had made this one of his principal concerns. So the breakdown of these numbers would be something that I might not ever have been fully familiar with.

In my mind, anyone that was unaccounted for, I wanted accounted for. I just had no experience with ever getting anything from the Vietnamese without pressure. And this accounts for why things started petering out in 1973.

Vice Chairman SMITH. I understand that, and I understand why you could not read it because I cannot read it either over there now that it is on the other side.

Dr. KISSINGER. Mr. Bremer points out to me the following: In conformity with what I have told you, that after the issue became concrete, that is to say when we had lists, we had a meeting of what was called the Washington Special Action Group and we asked the various agencies, JCS, and Defense, to give us a number. And I believe that the number they gave us on Laos—this was January 29, 1973—was that they thought it would be something like 40 that would be left and that they thought the numbers in Vietnam were fairly accurate. This was after we had the Vietnamese list but before we had the Laos list. But this doesn't really answer your question about the 1,200 which weren't on any concrete list.

Vice Chairman SMITH. Right. The issue here is that we had these 87 cases where we had a lot of very specific information which you brought some sample cases up with the Vietnamese and discussed that with them or your associates did. But these 1,277 people were listed as—by our folks—as MIA, not thrown in the category of POW, but there was no information whatsoever that they had been killed, and this was a big area that was basically unanswered.

And I think that there is at least a statistical possibility that some of those people could have survived.

Dr. KISSINGER. I have always been open-minded on that, Senator. Vice Chairman SMITH. Right. And as you—and my time is running out, I would just want to finish up on this point: As I talk to you about the agreements evolving, you had these lists, and when you had them analyzed—and, of course, there were no names on there from Laos, other than the nine or ten that the Vietnamese captured and had in Hanoi, captured in Laos and had in Hanoi. But when you realized that the iron-clad agreements which you refer to, the iron-clad guarantees that you spoke about on January 11, 1973, we did have iron-clad agreements with the Vietnamese but what happened is they did not comply with those iron-clad agreements.

So early on we realized in negotiations that this list was certainly not complete and there were a lot of unanswered questions, and that the Vietnamese could not and did not—either could not or would not give us the information on Laos, correct?

Dr. KISSINGER. Correct, Senator. Let me point out my general perception about the agreement. In December, before the agreement was signed, before the last negotiation, I sent a message to President Nixon to tell him what we would be up against after the agreement. It was not in reference particularly to the missing in action, but it was a general perception. With your permission, I would like to read this because it explains how I perceived the agreement would have to be implemented.

Chairman KERRY. This is at what point?

Dr. KISSINGER. I don't have the exact date. It seems to me early December 1972, while we were negotiating with Le Duc Tho, but I can get you the exact date. Besides, Mr. Codinha told me he has it.

Chairman KERRY. I am sure we do.

Dr. KISSINGER. I am reading it from my memoirs, and since you have much better documentation than the author, why don't you give it to the chairman?

"We can anticipate no lasting peace in the wake of a consummated agreement, but merely a shift in Hanoi's modus operandi. We will probably have little chance of maintaining the agreement without evident hair-trigger U.S. readiness, which may in fact be challenged at any time, to enforce its provisions. Thus, we are now down to my original question: Is it better to continue to fight on by scuttling the agreement now; or be forced to react later, vindicated by the violation of a solemnly entered agreement?"

My view was, Senator, that we were better off trying to enforce an agreement than trying to continue the war for marginally better terms. And therefore, it was always part of my conviction that we might be challenged somewhere along the line, and therefore I recommended early on that we resist and then proposed a renegotiation of the whole thing to Le Duc Tho, which took place under unfortunate circumstances.

Vice Chairman SMITH. Let me conclude by saying I respect the decision that you had to make there, given the politics of the times, that you felt that you wanted to continue with the process. But the question that I had that I would appreciate an answer to is were you shocked, were you surprised by that huge number of people that they basically gave no response to? There was nothing—none of those people were on any lists.

Dr. KISSINGER. I was surprised, and shocked even, by the small number of prisoners from Laos. Then we were told, as I have read to you, that the Defense Department list of prisoners in Vietnam was pretty much, in terms of numbers, the same as the others. But all I can tell you is that with a different bargaining position in a renegotiation, Senator Kerry would have been proud of me in how I would have presented the case and he would not have been in the position of recommending different language.

Vice Chairman SMITH. It is Senator McCain's turn. I want to stop here, just as a comment, to say I understand what you had to go through, but the reason why we are still here today with these unanswered questions is that the Vietnamese did not at that time, nor have they since, provided us answers on those 1,277.

Dr. KISSINGER. Senator, first of all, I respect greatly what you have been doing throughout your public life in trying to get an accounting for the prisoners. I think it is a national issue. I think this committee can make a big contribution to it. All I want from the committee is they don't smear those of us who tried to get an honorable conclusion.

Chairman KERRY. Let me, in defense of the committee, just say, Mr. Secretary, just say that the committee has not made any pronouncements. The testimony of Secretary Laird, Admiral Moorer, General Tighe, of Richard Armitage, former Undersecretary, I mean, these are all Nixon appointees who, under oath, have given their testimony to this committee. Now, that is what we are dealing with, and that is what we are really asking questions about.

Dr. KISSINGER. Well, Admiral Moorer will speak for himself. I'd be astonished if his view were—

Chairman KERRY. Well, Admiral Moorer already spoke here at one time, and he said that he had huge nagging conscience about people being left behind.

Dr. KISSINGER. No. No, no. Well, he must speak for himself.

He had the same problem I did. That is, we were all terribly unhappy about the fact that we did not have a complete accounting for the missing in action. But every question you ask, Mr. Chairman, implies that it was the Administration's fault, and that I reject.

Chairman KERRY. What I am trying to get at in my questioning, and I am about to turn to Senator McCain, is not an implication. I am trying to understand whether or not the process matched the promise. That is a fair inquiry. It was not me or anyone here at this table who said we will have the fullest possible accounting, we have iron-clad guarantees, and other such phraseology.

All I am inquiring about, Mr. Secretary, respectfully—and I wish I did not have the history I obviously have because it would put me in a different position to ask the question, but I am here and I have to ask it—is what happened that we are here 20 years later asking the same questions that were trying to be asked then? That is a fair question.

Dr. KISSINGER. Oh, it's a fair question, Mr. Chairman, and the answer to it is that this body prevented the enforcement of the agreement. When we spoke of iron-clad guarantees we never thought we were dealing with a bunch of Lord Fauntleroy's to

whom we could hand a document. We thought we had the right to enforce the agreement, which was then taken away from us.

Chairman KERRY. I agree. This is abusive of the others' time, and I do want to follow up on that, because your own record suggests that there were options available and it was not just this body. But I am not going to do that now.

Senator McCain?

Dr. KISSINGER. Are you saying there were options to get prisoners back that we didn't take?

Chairman KERRY. Let me come back to it.

Senator McCain. Go ahead. That is an important question.

Chairman KERRY. Mr. Secretary, the reason I asked it is that there is a body of evidence in the documents and elsewhere that suggests that what you were setting up—and appropriately—I applaud you for this, I am not second-guessing it. I do not come here to say that this was a lousy agreement. I do not think it was. I think you got what you could get under the circumstances. That is not what is at issue here. What is at issue here is a complaint lodged by families, mostly, and by their supporters significantly, and by others who have listened over the years, that suggests that the full accounting that was promised did not happen. We have now heard from somebody as respected as your friend, Winston Lord, somebody as respected as your colleague in Government, Secretary Schlesinger, and others who say to us that there were politics that entered into this.

There was a dynamic in those months of various Secretaries of Defense, of Watergate growing on the Presidency, of the fact that we were withdrawing and had a date certain, and you, yourself, expressed, and I read this in a number of your documents, in your book as well as in your deposition, you said that the Vietnamese made a misjudgment, that they thought we were going to be stronger after the election, so there was a compulsion for them to move prior to the 1972 election, but that you knew—this is in your own words—that in fact we would be weaker and that the capacity to prosecute was diminishing.

So the question that just sort of leaps out at me is if you knew that that capacity was diminishing and we would be weaker, and yet we were holding out to the families that we would get a full accounting, what is it that happened in those ensuing months that prohibited us from having it and why did we not move heaven and earth? Why was Congress not told? Those are the questions, and maybe there are very real reasons for it. I just am asking the question.

Dr. KISSINGER. Mr. Chairman, the only concern I have in your questioning, sir, is that you represent a point of view that contributed to the fact that my judgment was we would be weaker, and therefore it does not come with good grace to accuse us who were deprived of the capacity to do what we thought necessary, of not having done what you prevented.

Chairman KERRY. Mr. Secretary, politely and nicely, let me say to you this was the longest war in American history. In 1968 President Nixon came, and that was the year I was in Vietnam fighting, came with a program for peace, supposedly. In point of fact, what

you wound up with in 1973 was extraordinarily close to the program tabled in 1969.

Dr. KISSINGER. Absolutely not.

Chairman KERRY. Well, very close.

Dr. KISSINGER. Not even remotely.

Chairman KERRY. I have read it word for word. But you suggest to me that those who opposed the war somehow took away options from you. I mean, that is totally turning logic—I mean, the war—

Dr. KISSINGER. Mr. Chairman, first of all, what you are repeating here is the liturgy that one reads all the time that happens to be totally wrong. I don't happen to believe that this dialog is very helpful because it refights the Vietnam War.

Chairman KERRY. Which is what I sought not to do.

Dr. KISSINGER. And I did not start that.

Chairman KERRY. I beg to differ with you.

Dr. KISSINGER. No, no.

Chairman KERRY. I beg to differ with you, Mr. Secretary. You were the first person here to suggest today that somehow it is inappropriate for me to ask the question because I represented a view that denied you these things. Now, I do not believe I denied you anything.

Dr. KISSINGER. No, no. All I'm saying is that the people who in good faith were opposed to continuation of military operations—I do not in the slightest question your good faith—cannot now say you didn't get what you could only have gotten by continuing military operation. That is all.

When I said that my judgment was that the Congress would vote us out of the war in 1973, that was a judgment of a point of view that you supported. It was a period when I met 27 times with protest people.

Chairman KERRY. Mr. Secretary, I wore the uniform. I was in Vietnam. And I came back, and from the day I got back here I expressed concern about my comrades in arms. And there was never an expression by me or anybody else that I supported that suggested we should not get everybody back or have a full accounting.

Dr. KISSINGER. Mr. Chairman, you were making two points. You were saying we fought for 4 years to get the terms in 1973 that we could have gotten in 1969.

Chairman KERRY. No, I did not say that. They were different. I said almost the same.

Dr. KISSINGER. They were not almost the same. There was one fundamental difference at a minimum. The Vietnamese position until October 8, 1972—

Chairman KERRY. Was the withdrawal of troops issue in the South.

Dr. KISSINGER. No, No, sir. The position was that we had to give a deadline for withdrawal, that we had to meet that deadline regardless of what went on in any other negotiation, that we had to overthrow the government in Saigon and put in a government standing for peace, freedom, and country, or whatever the three words were, for which we could never find one representative that we knew—

Chairman KERRY. Agreed.

Dr. KISSINGER [continuing]. That they would have found acceptable. So they wanted us to put in a communist Government, give an unconditional withdrawal of our forces, withdraw, and then they would discuss prisoners. Under those conditions we had no leverage at all, and we might not even have gotten the prisoners, much less an accounting.

Chairman KERRY. But, sir, I was not talking about what their position was. I was talking about what our position was. But frankly, all of this discussion is totally sidebar to this issue. None of this is really relevant to what we are trying to get at here. That is why I have consistently said let us not get bogged down in rehashing that. The only relevant issue is the question of what did or did not happen and what we did or did not know with respect to the prisoners.

Dr. KISSINGER. It was always—

Chairman KERRY. Because I said I thought you got a good agreement. I do not know why you cannot accept that. I said I thought you did well. The question I am asking is what happened afterwards in the implementation.

Dr. KISSINGER. What happened afterwards, Mr. Chairman, I have stated repeatedly. We were deprived of the ability to enforce the agreement.

You keep implying that we did not have the desire to enforce the agreement.

Chairman KERRY. I am not implying. I am asking the question, because the record does not show that you did. The record shows that this issue disappeared when President Nixon said they are all coming home and Mr. Shields said there is no indication anybody is alive.

Now you raised an issue—I see your counsel is shaking his head; I will respond. I think you raised the issue of whether there was a statement subsequently or meetings subsequently on the full accounting issue. I acknowledge, and the committee acknowledges, yes there were. You subsequently said we are not getting a full accounting.

The question, however, in the record, is whether or not we were able to or did follow through as you had envisioned in the use of force. Now you have answered we could not because Congress took it away.

Dr. KISSINGER. Correct.

Chairman KERRY. My response to you is that Congress did not take it away until June or July, and that you had that option and exercised it in February, March, April, May, and, indeed, did bomb, but never bombed for the purpose of the full accounting and never laid it on the table to the American people.

Dr. KISSINGER. With all due respect, Mr. Chairman, first of all, how would you know what the purpose was of our bombing except by ascribing motives to us which are simply outrageous?

Chairman KERRY. It is not a motive. I am just asking you. I mean you keep coming back—

Dr. KISSINGER. Second, we did not do any bombing—but again we have to check this—in Vietnam at all. We did some in Cambodia in order to establish a negotiating position, and I believe there was some in Laos but I'm not even sure that I remember that correctly.

Chairman KERRY. Senator McCain.

Senator McCAIN. Thank you, Mr. Chairman. I do think it is relevant as to whether we would have been able to enforce agreements or not, and whether the Vietnamese knew whether we could enforcement agreements or not, because I think that directly relates.

I would like to, again, refer to the full statement made by President Nixon on March 29, 1973. The chairman and others continue to refer to a statement where he says all of our American POWs are on their way home. I think it is important to add that one sentence later he said:

There are still some problem areas: the provisions of the agreement requiring an accounting for all missing in action in Indochina, the provisions with regard to Laos and Cambodia, the provisions prohibiting et cetera have not been complied with.

So the President of the United States did not just say all Americans are on their way home. He caveated it, and very strongly.

The other statement that is referred to quite often is that by Mr. Shields: We have no indication at this time that there were any Americans alive in Indochina. What is left out is the following part of his statement which says: "We do not consider the list of men that we received from Laos, the recovery of 10 individuals, 9 of whom were American, 7 military, to be a complete accounting for all Americans who are lost in Laos, nor do we consider it to be a complete statement with regard to Cambodia, et cetera, et cetera."

So both Dr. Shields and the President of the United States in 1973 stated unequivocally that there were still serious problems with the full accounting of the MIA/POWs.

It has been stated several times that the United States did not act when having information concerning Americans alive in Laos. Is it not true, Mr. Kissinger, that in March of 1973 we knew that there were 10 Americans, or 9 Americans, who were being held captive. At least, quote, in the Vietnamese contorted logic, that were actually prisoners of the Pathet Lao and not the Vietnamese, although we knew that they had been held in North Vietnam, and at one point they refused to release those prisoners.

Is that correct?

Dr. KISSINGER. Correct.

Senator McCAIN. And on three occasions in the month of March we suspended the troop withdrawal. Is that correct?

Dr. KISSINGER. Correct.

Senator McCAIN. And why did we suspend those troop withdrawals on three occasions in March 1973, Dr. Kissinger?

Dr. KISSINGER. Because we wanted to get back the listed prisoners on the agreed date, which was March 28.

Senator McCAIN. Did you ever have specific hard evidence that there were Americans held captive, as you did in the case of those 10 who were being held captive nominally under the Pathet Lao?

Dr. KISSINGER. No, we did not. I recognize Senator Smith's concern, but we did not have anyone that was listed as a live prisoner.

May I also explain to the committee the following. I have seen a great deal in the press about these withdrawals and the fact that they were slowed down and then they were taken up again as a symptom that we were quitting on the prisoners. That is a misunderstanding of what these troops represented.

At the time that you're referring to, Senator, there were 5,300 troops left, not one of whom was a combat soldier. President Nixon made the decision. My own feeling was at first that we perhaps should resume military operations before the last tranche of prisoners came back, in order to show them how seriously we took it, and then to continue them if they did not send them out.

President Nixon took the very correct decision—which has, in my view, nothing to do with Watergate—that any President would have taken: He wanted the 160 prisoners back first, and we would then go to the other aspects of the agreement. But he wanted to get those 160 back. If we were going to resume military operations, we were never going to do it with the 5,300 troops that were left in South Vietnam.

Senator McCAIN. But it is a fact that on the one occasion where you had hard evidence of Americans still being held captive, you took action until the Vietnamese returned those men.

Dr. KISSINGER. Correct, Senator. And we did it once before. I forget the exact date, but there was something during the February withdrawal that we stopped mine-clearing operations and troop withdrawals because there was some delay or playing around with the lists. And, again, they yielded very quickly.

Senator McCAIN. After the war was, at least unofficially, over, with the signing complete, and there was still serious questions in your mind about Americans being held captive. After, not before, what was the reaction of Le Duc Tho and how often and what priority did you give the issue?

Dr. KISSINGER. I really think everybody training in law ought to be given one exposure to a North Vietnamese negotiation.

[Laughter.]

Dr. KISSINGER. I think it would establish harmony between us here. Le Du Tho could not have cared less about my priorities. And, in fact, one of the problems we faced in these negotiations was that the more I showed eagerness on a topic, the worse my negotiating position was as far as he was concerned.

So I never gave him a particular list of priorities in that sense. However, nobody who read the record, as they very carefully did, could have had any question that the return of the prisoners and the missing in action had to be a principal account. And all of you—

Senator McCAIN. Both before and after.

Dr. KISSINGER. Both before and after. All of you, and certainly some of you here, I met with the families of the missing in action. Sybil Stockdale has described that in her book. It was a heartrending experience all during the war. It was all the more painful because I never could tell them that we were negotiating.

And therefore there are some things that are so self evident, that I didn't have to write a memorandum to President Nixon to say that this is not satisfactory. We said it—I asked my associates yesterday—there are 10 statements in a 4 month period. It was a matter of the most overwhelming concern to us, and anybody of the families who ever met with me will confirm this.

Senator McCAIN. Dr. Kissinger, since it has been 20 years, when President Nixon initiated the December so-called Christmas bomb-

ing, what was the reaction in the United States and in the Congress?

Dr. KISSINGER. Well the reaction was violent in the Congress. I don't know whether the public opinion polls—my recollection is that there was a gap between what was said in some of the media and in the Congress, and what the public support was. But the reaction was violent. We were accused of mass extermination, of area bombing, or all kinds of things.

Senator McCAIN. And the pressures on President Nixon to halt that bombing.

Dr. KISSINGER. Incidentally, every visitor to Hanoi afterwards knew that the city itself was undamaged except on the site where the airport was, which was not the inhabited area.

Senator McCAIN. The pressures on President Nixon to halt that bombing were intense.

Dr. KISSINGER. Intense.

Senator McCAIN. The most intense that you experienced during that time.

Dr. KISSINGER. It was the most painful and difficult period, especially since we had thought we were so close to peace.

Senator McCAIN. So when you contemplated resumption of military operations, what do you think that the reaction would have been then?

Dr. KISSINGER. We were convinced the reaction would have exceeded that of December. And all the public statements in both the Congress and in the media on the editorial pages support this.

Senator McCAIN. In the resolutions that you cited, and I am sorry I do not have the appendix, you said there were some 35, I think, in 1972, and then others in 1973, including one you refer to where 30 Senators called for unilateral withdrawal, I believe, if that is basically correct?

Dr. KISSINGER. Correct.

Senator McCAIN. Did those resolutions mention return of the prisoners of war as a precondition, or did some of them or none of them?

Dr. KISSINGER. No, there were two categories of proposals. And, again, I have made comments about the chairman, but I want to repeat I always kept in contact with the peace movement because I wanted this country to be brought together again afterwards. But there were two kinds of resolutions, if I remember it correctly.

There was one kind of resolution that said all we should do is withdraw and negotiate for our prisoners simultaneously. There was a second category of proposals that said just get out because once you are out the Vietnamese have no reason to keep the prisoners and they will come out.

The 30 I referred to were in the second category. Now the first category had a deceptive simplicity which not every sponsor could possibly have understood. For example, you would say you're going to get out just in return for prisoners. That means the Vietnamese are collapsing all around you because their war is continuing. Hanoi had always made clear that they would not stop fighting, leaving aside, now, whether it was negotiable, which it also wasn't.

Senator McCAIN. But is not some of that understandable since the, quote, peace movement was sure that they would have a free

and democratic society and a freely elected government in South Vietnam. I believe the phrase was let the South Vietnamese people determine their own future themselves.

Dr. KISSINGER. That was the big issue. This idea of just prisoners for a cease-fire—not for a cease-fire, but prisoners for withdrawal was, A, not negotiable, but B, was also not practical. We also did not believe that we had fought a war, that was started in a previous administration, just to get our prisoners back. We wanted to achieve what four Presidents had declared to be in the national interest, namely not impose on the Vietnamese a government that they hadn't chosen.

Senator McCAIN. Which they got.

Dr. KISSINGER. Those were the issues.

Senator McCAIN. And hundreds of thousands in reeducation camps.

Dr. KISSINGER. And there were a whole set of misjudgments. There was a misjudgment on the part of our critics that they wanted a democratic government in the South, that there would be no bloodbath, there would be no other consequences. All of this turned out to be wrong, but was done by honorable people.

Senator McCAIN. Doctor, how do you respond—I would like you to try to respond again to Senator Kerry's question about Mr. Sparks, Lieutenant Commander Dodge or Major Dodge, others that I am sure were brought to your attention during your meetings with the families, that there was evidence or—I hate to use evidence, but the circumstances concerning their disappearance indicated that they would—that these people were more likely alive. In other words, how do you respond?

Dr. KISSINGER. That was one of the most painful things we experienced. There was circumstantial evidence. Senator Kerry read correctly from the record—I had forgotten the name, but that person also sticks in my mind because there were pictures of him in the newspapers which I brought to Hanoi. And it was one of the issues which I personally, and I am sure President Nixon, was determined to enforce.

I respond to it that we would never abandon people like this.

Senator McCAIN. Well how do you respond to the charge that you say you would never do that, but nothing was ever done?

Dr. KISSINGER. Well that isn't true. We kept raising the fundamental issue of the missing in action. I asked my people yesterday. They came up with any number of statements that we made. Now you can psychoanalyze those and say they weren't made forcefully enough; that's all very well to say 20 years after the event. The fact was if we could not either have incentives or penalties, there was no way we were going to get the North Vietnamese to yield.

My recommendations are clear. I recommended from the middle of March on to resume military operations. President Nixon in good faith decided he wanted one more negotiating round. But the opposition to resuming military operations would have confronted us with another nightmare like we went through in December.

Senator McCAIN. Why, in your view, is this issue still such an important issue to the American people over 20 years later?

Dr. KISSINGER. Why are my views?

Senator McCAIN. Why, in your view, is this such, still, a compelling issue with the American people after all these years.

Dr. KISSINGER. Well, the American people have a right to feel that when their sons go to war, the Government will do everything to get them back. And therefore for the American people to be given an account of what might have happened, what happened—I think this is a great service, as I told the chairman when he called me when he started the investigation.

The turn this investigation has taken, which seems to me to concentrate on American failings for Vietnamese transgressions, that pains me greatly.

Senator McCAIN. So you are satisfied that those who were still missing in action after the exchange of prisoners, that you did everything in your power?

Dr. KISSINGER. We did everything within our power that our political process permitted us to do, which was not enough.

Senator McCAIN. Should someone have at some point said look, we should be taking this course of action, but we cannot because of the political constraints?

Dr. KISSINGER. One of the problems in Government is that there are usually 50 things going on simultaneously, so when you say you do not want to be deprived of the authority to use military action, you may not always group your arguments in the most systematic manner. But certainly, if there had been cooperation between the Congress and the executive branch, we would have resumed military operations and we would have reopened the agreement. That was our firm intention.

Senator McCAIN. Thank you very much. Thank you, Mr. Chairman.

Dr. KISSINGER. May I take a 2-minute break, Mr. Chairman.

Chairman KERRY. Absolutely. We will recess for 2 minutes.

[Recess.]

Chairman KERRY. The hearing will come back to order. Before I turn to Senator Kerrey, Bob Kerrey, let me reemphasize what I have said, and I think that a little bit of this dialog has become too much of a rehash and the war itself and the circumstance. We are really trying to not let that happen.

Dr. Kissinger, Secretary Kissinger, is 100 percent correct when he suggests—and the committee, incidentally, just so the record is clear, has followed this course, because we went to Vietnam. We have made very specific requests of the Vietnamese, a process is under way with the Vietnamese, and indeed, the most significant issue in terms of accounting is getting the full accounting from them.

Just as one should not—and I think we are not—trying to suggest that there is a culpability, per se, with respect to POWs on behalf of Secretary Kissinger, so I think it is fair to say that the Congress or the peace movement or other people are equally not to blame for the issue of POWs. They are all part of the dynamic that the country confronted and that were part of the negotiations.

But the fair question that is being asked is, what happened in those months in terms of the relationship between the families, the POW community, the people who 20 years later are still feeling

that somehow the Government did not level with them, or that there was not direct response.

Now, these are agonizing questions. It is not fun. As I said at the outset, there are plenty of places all of us would perhaps prefer to be, but I think with the questioning and with the answers to these questions, a very healthy process is going on. I hope we can continue to make it that, because I think out of this will come a much better understanding of what happened back then and help all of us to make some decisions.

Senator Bob Kerrey.

Senator KERREY. First of all, Mr. Secretary, I am very sympathetic with the difficulty of trying to recollect what happened and what you did 20 years ago, so sympathetic, in fact, that I would not want the tables reversed and having someone asking me questions on what I did some 25 years ago. Fortunately, I was not a public servant at the time and had considerably more liberty than you.

I would observe that an awful lot of us have held a pretty fast attitude towards Vietnam and an awful lot of us have shelved the history of it. We've argued it, we've debated it, we've lived it, and we've to a very large extent put it behind us. This issue of POW/MIAs has reopened it.

In particular, I would say, Mr. Secretary, in my opening remarks I referred to a considerable amount of secrecy, an attitude—the need to maintain secrecy by the administration, and I say that particularly because my own views of both the negotiations and the efforts on behalf of the POW/MIA and the likelihood that men were still alive in 1973 has two periods. One, I would call before Senator Grassley's successful efforts to declassify much of the information that had previously been classified, and my attitude post-declassification.

I understand the need to protect national security and to keep things classified, but I do think that we excessively classified, and part of what is going on today is a reexamination based upon now having new information, and by the way, Dr. Kissinger, what I intend to do is give you some information about my views, since you know less about me and my views than I know about yours, give you an opportunity to respond, and then I've got two or three questions, if time allows, specific questions that I'd like to ask.

You said it's bad and cynical history. Well, I observe respectfully that I think it's much more apt to be a speed bump, a reevaluation that occurs as a consequence of now having new information, a new opportunity to look.

My own examination has caused wild swings both in my mood, at times very angry as a consequence of getting partial information, and I will admit, getting very sad as a consequence of seeing what are perceived as opportunities lost. Again, admittedly, it is easy to make that examination 20 years hence, but I am just trying to tell you that I have had powerful feelings in the last 4 or 5 days as I have read the details of the negotiation, and in particular read the details of the peace treaty itself. I must say, it is the first time I have actually examined that document.

I should declare to you that in regard to leaks, I nearly resigned from this committee in a dispute that occurred as a consequence of information being given to the public prior to our committee's op-

portunity to both examine and make decisions, and so I am also not only very sympathetic with that, I think it is a mistake for either committee Members or staff to try to reach conclusions prior to our examining all of the evidence and trying in a thoughtful fashion to say first of all what did happen, and second, what can we do to assist General Vessey in narrowing and getting a full accounting now, and lastly, what should we be doing with the Government of Vietnam today.

Now, you said in your testimony that no one was left behind by, in your language, a deliberate act or negligent omission. I would say to you, Mr. Secretary, I do not intend to prove this. It is not my intent to try to prove there was a deliberate act or negligent omission. In fact, as I read it today, I see no deliberate act or negligent omission.

But nonetheless, I also do not intend to accept that as a standard of performance, that if I am unable to prove negligence or if I am unable to prove some sort of deliberation, that I do not have cause to say that perhaps we could have done things differently.

Indeed, again, the purpose being to try to figure out what we ought to be doing today as we negotiate with the Government of Vietnam, because whatever leverage we had in 1973, we have considerably less leverage today, and the issue is still there. We are still trying to negotiate with them.

I should also, at this point, point out that I myself have been criticized by some of currently taking a too hard-line attitude toward the Vietnam Government. My own belief is that a full accounting of our people will not occur until the Vietnamese Government itself is accountable to its own people. This is a government that has lied to its people ever since they seized illegitimate power in 1975. They have continued to lie and misrepresent facts to their own people.

On Ho Chi Minh's mausoleum there are the words, Independence and Freedom. I believe they did achieve independence, but I do not believe the people of Vietnam have achieved freedom.

I have also, I will say at this point, been accused—and I am uncertain whether the accusations have merit—that I am too naive in regard to the idea of freedom for the people of Vietnam, that in discussing the possibility the people of Vietnam could be free today, that we ought to measure our own acceptance of their offers today to help us with POWs measured by their own willingness to provide freedom for their people. I am sometimes accused by people who say that's too naive a view.

Indeed, former Secretary of State Haig yesterday said that we ought to be very careful in talking about freedom, that we ought to be talking instead just about economic cooperation, we ought to be talking instead about other sorts of things like that.

What I am trying to say to you, Mr. Secretary, is that there is a current issue of the POWs as well as a historical issue, and the historical issue should, properly examined by us, provide some information upon which we can make decisions about what we ought to be doing today to get a full accounting with the Government of Vietnam, and your own experience, having negotiated with the Government of Vietnam, though some would argue it is less hard-line, I see the current politburo being just as hard-line as Le Duc

Tho was in 1973. Perhaps it is not, but your own advice there would be valuable.

In your own testimony, there was a moment when you did not need to reference your printed words when you spoke very movingly of an America that had saved you and your family from totalitarianism.

There were an awful lot of us who grew a bit skeptical of the cold war as a consequence of our own experience, whose skepticism melted when we saw the miracle of East Germany becoming liberated, Czechoslovakia, Hungary, and Poland becoming liberated, and we were not only amazed at the courageous spirit of the people in Eastern Europe and of the now Newly-Independent States, but we were amazed to find the destruction of totalitarianism and how, indeed, terrible it had been.

I myself had a moment in Vietnam a year and a half or so ago, where I was instructed to visit, as an evidence that the Government of Vietnam had opened the political process, a man who had been held as a reeducation student as a result of his having been a part of the South Vietnam Government and now was a member of the parliament. After having a photograph taken with him, he turned and he said, Senator, we believed you.

I mean, it was the most difficult moment that I have had in the whole reexamination of Vietnam. Though I may be accused of being naive, I believe the cause of freedom should have been the cause that sustained us.

I am intrigued, Mr. Secretary, by the language of Article 21, which seems to imply the potential of a vision. Article 21 of the peace treaty implies the possibility of a new relationship with Vietnam, given certain things happening.

I regret my own conclusion that at the time not only had Congress not provided the resources, but it seems to me the people of America, for in many cases good reason, had given up on that cause, did not feel that cause, did not feel the cause was worthwhile.

We were still engaged in that cause in Eastern Europe. We were not engaged in that cause in Vietnam. We still today are encouraged by some to say that that cause is not worthwhile, but I indeed believe that it is.

I am intrigued, Mr. Secretary, as I read the peace document and as I read the negotiations, and as I consider, perhaps naively, I am intrigued by the possibility of what might have been, both in terms of our own families feeling more comfort about missing in action, but also by what might have happened for the people of Vietnam, what might have happened had we done things differently, had the cause of freedom still been felt by the people of America.

I just do not believe it was in 1973, regrettably, and I think it is very important, at least in my view, for us in 1992 to say that that is the cause that engages us today, both for the purpose of saying that those of us who fought, fought for something that was just, but also for the purpose, Mr. Secretary, of getting a final accounting of our missing in action.

I have some questions that I would like to ask. I will just give you an opportunity, if you would like, to respond to anything that I

may have said that you do not agree with, or anything you might say that would just be in simple response.

Dr. KISSINGER. Well, Senator, what you've said is I think, very moving, and it goes to the heart of America's role in the world. America is a very special country. It's the only country that's ever been created in history for the purpose of the idea of liberty, and to which people came to be free of their old societies and at the same time join a society that was built in the name of freedom and human rights. This has given America a very special quality.

Then, good fortune isolated America from the rest of the world physically so that for 200 years, nearly, America did not have to concern itself with the problem of security in the normal sense of other nations. The changes that it would take to threaten American security were so vast that it would always take a global kind of conflict to involve us.

I say this because it produced a kind of exceptionalism for America. We believe that our ideas are universally applicable and immediately translatable into political action, and that some of the nasty business of security was something we could avoid. This we could do for a greater part of our history. Now, I believe we have to stand for freedom, and our people have to believe that that's what we stand for, because otherwise there is no basis for action. The difficulty in our foreign relations now in this world is, how do you translate this into action? Where I sometimes differ with people whose values I greatly respect is that some of them seem to think you can apply it automatically and that it will happen by itself, or it will happen if only you affirm the idea of freedom enough.

I believe that our faith in our values has to give us the strength to do the difficult things, and to enable us to navigate in complex situations but not lose sight of what we are trying to do.

You mentioned Vietnam. Vietnam presented us two problems. One was at home. I came into this as a professor of government at Harvard. Almost all of my friends were on your side of the political divide.

Senator KERREY. At that time, I was on your side.

Dr. KISSINGER. Oh, you were on my side. Well, they were on the Democratic side, and most of them were on the liberal side. I did not agree with their view on Vietnam, but I agreed with the motives that produced them, and this produced a great ambivalence in me.

If you read in all the accounts of the period, I spent a lot of time with the peace movement people, including a fellow who was fasting in front of the White House. People said I did it in order to win them over. I couldn't win them over, but I wanted to create a basis for a later consensus. I became fascinated, and I still am.

Almost everything we've discussed here today we could have dealt with as a united people if there had been a minimum of confidence. I hate to say this, but if we had made a huge effort, if we had made a huge explanation that we wanted to bomb because of the prisoners, there would have been a debate on that issue, and that the bombing was an invention. There was just not a minimum of confidence, and I don't want to ascribe fault. There were some mistakes made by the Administration, but there were also many, many mistakes made by the critics.

Let me go to Vietnam. There we were dealing with a society almost, as I said earlier, monomaniacally obsessed with itself. It is the only society that was occupied by China for hundreds of years which retained its identity, did not take Chinese script, writing; they have done this by being focused on themselves with a single-mindedness that has enabled them to survive, but also makes it very difficult for them to understand other societies.

We had the problem of South Vietnam. I have been studying this now for a book I'm writing, not on Vietnam, just how did we get into it?

It is interesting that four American presidents from Truman on were convinced that the freedom of South Vietnam was essential for American security, and were never challenged. And suddenly in 1967—when President Johnson, carrying out what all his predecessors had affirmed and what in the first 2 years of the war was also not challenged—it turned into an issue not just of prudence, which I would have agreed with, but an issue of American morality. After that, the Vietnam debate got totally out of control in the sense of the inability to create a national consensus.

Now, here we had the problem in South Vietnam. One can always escape one's dilemmas by asking for perfection as a precondition for action. The South Vietnamese were not democratic by tradition. They had no experience with it and we implanted a government there in the Kennedy administration, as the result of a coup. But they were attempting to become more democratic, unsatisfactorily with great confusion. I believe that if they could have preserved their independence, they would be at least as far along as Korea is today, which is not perfect but is developing a multi-party system with many blemishes.

We in the Government that inherited that war thought it was against America's fundamental honor to turn over millions of people, that in reliance on our word had adopted a certain cause, to the Communists, which was the only option we were ever, in fact, given until October 8, 1972.

I tell you, to negotiate with President Thieu was only slightly more pleasurable than negotiating with Le Duc Tho because these are people that have very single-minded attitudes.

Now today I almost recuse myself from Vietnam debates. I have been so bruised and these divisions, have damaged my country so much that I'm always afraid I'm not rational. So I'm not taking any public positions.

I do no business there in my consulting firm. I take no clients who do business there. But I don't object to it if people feel they must do it. I myself cannot certainly make peace with them until they give us the accounting. But one should some day study this problem from the point of view of the complexities we faced and the anguish it caused to people on all sides of this debate.

Senator KERREY. Mr. Secretary, do you think it is possible or probable that Americans were still alive in April of 1973 in Laos or Vietnam?

Dr. KISSINGER. I think it's improbable that any are alive today. I honestly did not think there were any alive in Vietnam when the war ended. I have always kept open the possibility in my mind that there were some—that there were some in Laos.

I want to make one point, to which you also referred to. Unbelievable as it looks in retrospect, one of our big hopes when the peace was made and one of the reasons Article 21 was written this way—and I appreciate your noticing it—was we really thought that we should make a big effort to get North Vietnam into the community of nations, to see whether we could establish a more normal relationship.

And since Mr. Codinha has all the records, let him show you my concluding remarks when we had made the October 8 agreement with Le Duc Tho in a secret session. Nobody ever thought this would become public; it will give you the mood, which may have been a little naive, of where we might go if that agreement were implemented.

Senator KERREY. I have time, perhaps, for a single question. Mr. Secretary, again, the object is to try to make progress today by acquiring information about what happened 20 some years ago. Thus if there was a moment where you say here is a situation where I made a judgment and today, knowing what I know now, I would not make that judgment today; it is certainly not an admission of negligence on your part; I mean there are things one acquires after the fact. You negotiate in good faith and you think that you are going to get something, you hope you are going to get something, and you do not, once burned you learn not to do it again. And that is the kind of information I am trying to get with this question.

On October 20, 1972 in a cable from Haig to Colonel Guay in Paris, you propose that North Vietnam issue a unilateral statement that it undertakes to make arrangements—that is the quote, undertakes to make arrangements—for the return of POWs and an MIA accounting. Now you cited a previous Le Duc Tho agreement that North Vietnam—again, I quote—will make itself responsible, end of the quote, for this.

North Vietnam responded the next day with a cable that they would not make such a unilateral statement. They did say, however, that the—again a quote—Democratic Republic of Vietnam, the South Vietnamese, will carry out without a change—or, excuse me, the North Vietnamese, the PRV—without a change what it has declared to the United States side, end of the quote. And again a quote: will do its utmost to come to an agreement with its allies, end of the quote.

They added that the Pathet Lao had said they would release their POWs within 60 days of the signing of a Vietnam cease-fire. A day later on October 22, 1972, an Al Haig cable to Colonel Guay says: The President, again quotes, notes with appreciation, end of quote, the North Vietnamese message, again a quote: which satisfied all his points with respect to Laos and Cambodia, as well as U.S. prisoners, end of quotes.

Now I should point out again that this information is recently released. Our capacity to talk about this particular document came, again, mostly a consequence of Senator Grassley's efforts to get it declassified. I think it can be useful, handled in the proper way.

Now the question that I have is did you agree with the President, or were there further points regarding U.S. prisoners that you still wanted?

Dr. KISSINGER. I'd have to say yes to both questions. I probably would have liked further points, and I agreed with the President. First of all, in fairness to the President I have to say that his message was either drafted by me or followed my recommendation. I don't remember exactly how it was done, but it is not possible that in a negotiation that I conducted the President would send a message that he had not fully discussed with me.

Senator KERREY. At that point, though, were you confident that North Vietnam would release all U.S. prisoners in Indochina?

Dr. KISSINGER. No, my basic view was that of all the provisions of the agreement, that was the one where they faced the greatest threat of our retaliation if they didn't carry it out.

And let me point out, this was such a convoluted exchange of messages that in this message the North Vietnamese incorporated in their reply, where they say we are carrying out all the assurances we have previously given you. It's almost unreadable, but it says the DRV will also assure that the provision in the general agreement for verification of U.S. military men and civilians considered missing in action will be applied also in Laos and Cambodia. This is all part of the same complex of exchanges which they are confirming here, and that President Nixon is confirming.

Senator KERREY. As I understand it, the idea of agreeing to an exchange of prisoner lists—and, again, I point out that it has relevance for our negotiations with Vietnam today—that the idea of an exchange of lists the day that the agreement was signed, that that decision had been made in August of 1971. Is that correct or not?

Dr. KISSINGER. Well I already said to Mr. Codinha, who went to law school in America and not in Hanoi, that it's difficult to apply American standards here. There's no criticism of the counsel. When we look at these documents, we think that every negotiation sort of has a history, and what you said in August 1971 then becomes part of the record and goes on. Now with the Vietnamese, that simply wasn't the case.

Senator KERREY. But it seemed, as far as we are concerned, to be settled. Is that not true?

Dr. KISSINGER. Well it was our proposal, but then it started all over again in 1972. But yes, this was something we were willing to do.

Senator KERREY. The reason I raise it, Mr. Secretary, and I should say it again for the public's understanding, all these documents have not been unclassified. And the requests that we have put in about both to the Archives and to the Library of Congress, with your permission, the instructions were that we were going to receive documents that related where discussions occurred about the POW/MIA.

We received very few documents in that early stage of negotiations when, as you said earlier, the North Vietnamese tabled an offer on October 6, 1972 that was essentially an acceptance of what President Nixon had offered in May of that year.

Dr. KISSINGER. Correct.

Senator KERREY. We see very little discussions of the POW/MIA issue in those early days, leading us to conclude that the idea of a list exchange on the day of the signing had been settled.

Dr. KISSINGER. My basic strategy with the POWs and MIAs was always to have a demand on the table, but never to beat up on it because until we had an agreement in principle, nothing was going to happen anyway. And our eagerness was already sufficiently demonstrated in the Hotel Majestic.

Senator KERREY. Are you saying that there was a demand on the table to change that so that we would alter the terms under which we would receive the list? That the United States had a demand on the table to change that particular term?

Dr. KISSINGER. No. I don't remember exactly the sequence you're talking about, Senator; it's my problem. There were various phases of the negotiations. There was one block of negotiations from May 1971 to November, 1971, where the Vietnamese put us through the wringer in putting forward, I forget, nine public and seven secret proposals, or maybe it was the other way around.

They told us they wanted to discuss the secret proposals, but demanded publicly that we answer the public proposals, creating total confusion in the public mind. In that sequence we put forward a proposal for prisoner lists. In any negotiation you then have to adjust as you go along to see what you can possibly get, as long as we got the fundamental issue of getting our prisoners in a way that was related to other conditions.

Senator KERREY. Did you think—you mentioned the criticism that you received from the left, supposedly left, about ending the war. There was also, as I understand it, criticism from the right that you were negotiating too fast or that there was some of kind of a—

Dr. KISSINGER. No, no, no.

Senator KERREY. No?

Dr. KISSINGER. The right didn't get heroic until it was all over. [Laughter.]

Senator KERREY. There was no criticism from people who had formerly supported your efforts?

Dr. KISSINGER. No. We got some criticism on Soviet negotiations. On Vietnam negotiations, we got no criticism from the right. Not that I remember. That was not a major factor.

Senator KERREY. It is not an accurate statement that Mr. Kraemer, for example, Mr. Fritz Kraemer, for example—

Dr. KISSINGER. Well, Mr. Kraemer is a man to whom I owe a huge amount of my intellectual development. And he has been a huge influence on my life. I think he is more a part of the Prussian than of the American tradition, which is no reflection on him. You cannot call him a figure from the American right.

Kraemer's fundamental view is that you shouldn't negotiate with Communists at all. And therefore it's been a source of great anguish to me that the man who was the mentor, my mentor through so many years, had a totally different view. But he looks at it philosophically, and I had to look at it practically.

I had to deal with the situation in which our country found itself. And the idea that you would fight this war to a total victory, which would have been his preference and one that I, by instinct, would have also far preferred, was no longer open. But from the American right—and I don't say this invidiously of Kraemer.

Kraemer is a man who left Germany not because he was part of an oppressed minority, but out of conviction. But he is a man who is opposed to negotiating with what he considers evil. And when you are in Government, you have the painful obligation to negotiate; that was the problem with Kraemer.

Senator KERREY. Just one last question, Mr. Chairman. When this offer was tabled in October 1972—as my read of it is again, and I saw you nodding and I think you agree—that that was the North Vietnamese essentially accepting an offer that you had put on the table, or that President Nixon had put on the table, of May of that year. So it appeared—

Dr. KISSINGER. Let me describe what happened.

Senator KERREY. I will just finish this statement, and then let you describe it. It seems to me—and if this is not accurate I would appreciate your saying. But it seems to me that there was some recognition that this, indeed, could be the end game. That they have accepted much of what we had offered; they are now moving into the end game.

And the question that I have got is whether or not you considered saying thank you very much for the offer, I will go back, we will have meetings in the United States about this, and then we will continue the negotiation? And whether or not, today, you have thought about whether or not that would have been an advisable thing to do?

Dr. KISSINGER. Yes, I have thought often about that, Senator. Let me describe to you exactly how we made the decision that we did. Almost all the people in the Government who had been connected with the negotiations were with me there: General Haig, Winston Lord, many of the people that you had yesterday.

When Le Duc Tho tabled the proposal, it was in the early afternoon of October 8. I recognized immediately that that was the end of the war, because he had accepted what we had proposed on May 8 publicly and he had gone beyond it. Because we had offered that there would be elections in Vietnam and that Thieu would resign 2 months before the election, and a caretaker government would take over. And the North Vietnamese, knowing Vietnamese psychology, knew this would never work. They agreed to Thieu to stay in power, that there would be a Saigon Government with which they would deal as a government.

These were huge concessions in our mind, and it meant that we could end the war. And they accepted all the military terms, and did better. We hadn't been specific about infiltration and so forth.

My colleagues and I first went to a nearby woods to caucus for an hour. We concluded this would be the end of the war, one way or the other. We went back to Le Duc Tho and said we need 24 hours to think about this, although it's progress, or whatever we said; Mr. Codinha will have the text.

Then we went back to the embassy where we stayed. I literally walked through the streets of Paris for, I don't know hours, trying to clarify in my own mind what we should do, exactly along the lines of what you said.

We had this choice. We could go home. We could go to Saigon. We could just start stalling. We had, in meetings with many groups, forever said that if we got the terms we asked for we would

end the war, that we were not pursuing the war and that we were not making these proposals as gimmicks; we meant it.

The problem we faced in going either back to Washington or to Saigon was that I was pretty sure where President Nixon would come out, because we had talked about this a great deal. If we went to Saigon, the thing would blow up. And the result of that would be that the Vietnamese would publish the terms of what they had offered us. Then we would be in an impossible position of dragging our feet when they had gone further than accepting what we had proposed, and for which we had been attacked in America for having asked for too much. There was no criticism that we had been too generous in our offers, if you look at what the Congress was saying and what the media was saying in May, 1972.

So I concluded—and this is my responsibility—as follows: I sent President Nixon a cable saying something is happening here. He could, of course, have said come on home. I thought, under the time pressures as they were, we were better off seeing what improvements we could get in the agreement.

I thought I had caught the North Vietnamese for the first time, as the chairman pointed out, in a mistaken assessment of the American situation. They thought that after the election we might be stronger. I thought that after the election the congressional pressures would get worse, and therefore I wanted to use this interval to get a maximum improvement in their position.

In the 2 days of practically nonstop negotiation that ensued, one of their proposals was to set up something called a Committee for National Concord or Reconciliation, which in their first draft was practically a coalition-type government. We managed to reduce the functions of that committee so that it was almost meaningless, and so that Saigon was recognized in the agreement as an independent entity.

Second and most importantly for these considerations, the Vietnamese had lumped all prisoners together, and the exchange of all prisoners was supposed to take place together. Now this meant that the Vietcong that were in South Vietnamese prison camps, or any lists that they could surface as political prisoners, would be used to hold our prisoners hostage. We got that eliminated in very long and painful negotiations in which the North Vietnamese prisoners had to be returned, but none of the South Vietnamese prisoners had to be returned.

There was a whole series of improvements which we got in those negotiations.

It was a very painful decision. Now, we thought that Thieu would be so relieved by having been recognized that we would be greeted as heroes when we brought this agreement to Saigon. That turned out to be a misjudgment, which I say not as a reflection on Thieu, because his problem was, he had to prove that he was independent, and he could not just take an agreement we had handed to him, so he had to struggle for a while.

Senator KERREY. Did he raise an objection to Article 1, as well, because it referred to a single nation?

Dr. KISSINGER. Well, you have to separate the real objections. They were very ingenious in raising a lot of objections, but the real

problem we faced was this: he was marching to a different drummer than we were.

We could not keep faith with the American people and not accept a proposal when they had accepted our proposal. Thieu's position would have been infinitely worse if this thing had gotten published, there had been a huge controversy, and then the Senate, or the Congress, voted one of the many unilateral cut-off-of-funds resolutions which, for example, Senator Fulbright was urging at that moment.

I can only give you our reasoning. In retrospect, people can have a different conclusion. It would have come out about the same way, whether we went home first and went back. In the end, I think we got better terms that way. Unfortunately, since we couldn't enforce them, they disintegrated, but that was our reasoning.

Chairman KERRY. We are going to take one more round of questioning. As we agreed, Dr. Kissinger, we will recess at 1:15 p.m. to return at 2:30 p.m.

Senator Kassebaum.

Senator KASSEBAUM. Thank you, Mr. Chairman. As unprepared as I am to ask this question, thank you, Mr. Chairman.

First, I would just like to say, Dr. Kissinger, that I think that your opening statement was an important perspective. It is hard for us, and particularly some of us who were not as directly as involved as many others are here speaking today, to keep in mind what happened 20 years ago and more, and to keep that in mind as we think through what should happen today. I think Senator Kerrey put it in very eloquent terms as well.

I suppose really this committee was tasked to ask the question whether any Americans were left behind and are alive today. I think that, as many have stated, the fact that there were so many documents pertaining to those years that were kept classified, unnecessarily so, I think now, for so long, created a lot of questions and concerns that were never answered in a timely fashion, but you said—and I think this is important—that no prisoners were left behind by the deliberate act or negligent omission of American officials.

I would like to ask you just a little bit, though, and in light of what you say the atmosphere was at the time—and certainly we are all very aware of that. You did not read what is in your statement from an editorial in the Des Moines Register of April of 1973, that it would be a grave mistake for the United States to decide the peace violations by the other side were intolerable and jump back into combat again.

The agreement calls for the United States to get out and stay out, and leave the Vietnamese to settle the future of Vietnam, and I think in many ways that does express very well what the sentiment was at that time, and that was April.

Dr. KISSINGER. I think if you look at the appendices and what was said in the Congress and in the media at the time, you will find that that was the dominant view, what you've just read, Senator.

Senator KASSEBAUM. But I would like to just ask for my own clarification a bit about the lists. First, though—and this has been brought up before—in the March 29, 1973 speech of President

Nixon, he stated that all of our American prisoners of war are on the way home. Do you feel that President Nixon overstated the case?

Dr. KISSINGER. Not in terms of the categories we had in our mind at the time. In terms of the refinements that Senator Smith presented earlier, one would probably have been more precise, but in our mind there were only two categories.

Either people were known as prisoners, or they were missing in action, and therefore what President Nixon conveyed was that those we knew were prisoners were on their way home, and he also said those who were missing in action, we were not satisfied with. And that was the state of our classification at the time.

We had no other categories intellectually. In our mind, if we got proof that somebody was alive, we would have moved them from missing in action into the prisoner category, so I believe it was a correct statement.

Senator KASSEBAUM. During the negotiation—

Dr. KISSINGER. Incidentally, may I point out something that is not relevant to your question, but Secretary Laird called my lawyer's office to correct what he thinks was maybe a wrong impression.

He did not mean to say that he knew that prisoners were left behind. He knew that we didn't know. He said what I'm saying. But I want to point out, he did not say this to me. This is a message that I got during the break, but you might check it with him directly. Excuse me.

Senator KASSEBAUM. I think that is true. I think many have indicated that certainly anybody who was sensitive to the situation had to realize there could well be Americans there, just as you have said. That seems to me to go without saying in many ways.

The question is, of course, going back again just a moment to negotiations and the lists, during the negotiations, did you present to the Vietnamese lists of prisoners of war, of names that we had that were prisoners of war?

Dr. KISSINGER. I did not do it before the agreement was signed, because for the reasons I gave previously, I wanted to wait to see their lists and then raise discrepancies. I didn't want to give them an excuse to say that somebody who wasn't on our list they might conceivably hold back. But afterwards I took the 80 names that we considered discrepancies to Hanoi on February 10-11, which was 10 days after we received the Laotian list, and I brought with me the folders of 19 on whom we thought we had particularly good information.

Senator KASSEBAUM. So they presented their list first.

Dr. KISSINGER. They presented their list of January 27, yes. I had no basis to raise discrepancies until I had their list.

Senator KASSEBAUM. How were our lists prepared? Did the Department of Defense—

Dr. KISSINGER. I think the Defense Department would know it better than I did. We got some lists—there was one list that Senator Kennedy had. They never gave us official lists. They gave lists to people that they wanted to influence or to sympathizers.

Senator KASSEBAUM. I mean our lists.

Dr. KISSINGER. No, our list was composed of several elements. One, the lists we got indirectly that they gave to somebody like peace activists, and they once gave a list of 360-plus names to Senator Kennedy, and he very appropriately gave them to us.

We had other information. Then there were the letters to which Secretary Laird referred yesterday. That figure of 5,000 letters seems very high to me, but that was entirely in his Department, and they would be able to check that.

But they were putting it together from intelligence reports, from voice contact with people they had on the ground. That is how our list was prepared, but Admiral Moorer, when he testifies, will be able to do that, give it to you in more detail.

Senator KASSEBAUM. Well, in questioning some earlier witnesses, it has been a little hard for me to understand, because there seems to be some divergent views on exactly how these lists were put together.

Dr. KISSINGER. My office had nothing to do with preparing the list.

Senator KASSEBAUM. I realize that.

Dr. KISSINGER. We would accept what the experts would give us and not challenge it.

Senator KASSEBAUM. That is why I was asking you if you knew where it came from, from the intelligence—

Dr. KISSINGER. Generally, we got it from the Defense Department and the Joint Chiefs, and then the State Department usually did the negotiating about it.

Senator KASSEBAUM. In these negotiations regarding the lists, was there any consideration taken to whether there might be any in the Soviet Union at that time, any prisoners of war taken to the Soviet Union?

Dr. KISSINGER. You know, one of the unsettling things to me about seeing all these documents is that things appear that I might easily have sworn to have never happened. I do not recall any such conversation, and we would have reacted so neurologically that I don't believe that I would have forgotten that. I mean, if we had had any suspicion, with all the contacts we had with the Soviet Union, they would never have heard the end of it.

Senator KASSEBAUM. That is true, but they might not have been forthcoming about it.

Dr. KISSINGER. They might not have been forthcoming, but I don't believe we ever raised it with them. I know we never raised it with them, and that has to be because no one ever alleged it.

Senator KASSEBAUM. One other thing I guess that puzzles me, because you have gone into great detail and we have heard great detail about the Vietnamese and these lists in other hearings, what advantage to them would it be to not be more forthcoming? Why were they reluctant to give a full accounting? What advantage would it have been to them?

Dr. KISSINGER. Well, you know, why would they keep remains in morgues or wherever and dole them out to us two or three a year, which I find incredibly offensive—that every time they need to make a move they bring us a few remains of American servicemen who were killed there.

Fundamentally, I would have to say I can find no rational reason for them to hold prisoners, and one has to be fair that the terrain is so difficult that it is possible that people reached the ground and had voice contact and then died of exposure, or were beaten to death by local people, or it is possible that people were killed under conditions that the North Vietnamese were not eager to acknowledge, and some of it may have been just cussedness. I cannot find a good rationale. I have no knowledge whatever.

Senator KASSEBAUM. There have been some that have said, as you know, that they were holding them for bargaining purposes and seeking payment.

Dr. KISSINGER. Yes, but they never have actually bargained with them, and there were people who have gone there who have suggested it to them, and who have even suggested, why don't you say they were in Laos or something, and they've never done it. They're capable of it.

If a year or two later they had said, "we just found 50 and we want X billion dollars for them," I would have been totally outraged and not surprised. But why they would hold prisoners that they don't acknowledge; I have great difficulty understanding it.

Senator KASSEBAUM. Well, given your understanding and years of dealing with them, what—and this follows on what Senator Kerrey asked, too—what, really, should we be doing now to get an accounting? They have—in the trips that Senator Smith and Kerry have made to Vietnam, have been somewhat more forthcoming and documents have been opened to the committee by the Vietnamese, but still, there are some real gaps there.

Dr. KISSINGER. Well, as I said earlier, Senator, I do not usually participate in the debate on Vietnam because I am so bruised by it that I may not have a rational view.

My instinct would be that I would not give them diplomatic recognition, I would not give them any economic assistance, or any economic cooperation until they give us access to the areas where we now have intelligence and let us make a good faith search and check on whatever information we have.

I don't see why that should be beyond them, and after that I would let normal relations take their course. But that is something they owe us, and I think they have enough influence in Laos to bring that about there, too. I would apply the same to Laos.

Senator KASSEBAUM. Well, yes, I think that goes without saying, and clearly there was very little effort even made, too—while the Vietnamese promised that they would be responsible, nothing was ever really presented that was a clear understanding of the situation in Laos. Would you say that's correct, other than the ten?

Dr. KISSINGER. Well, from the documents that Senator Kerry brought out, I think the understanding about Laos is clear. They seem to break signed and unsigned agreements with equal alacrity.

So the problem in Laos was that our judgment was that the Pathet Lao, as many reports indicated, were total subordinate stooges of the Vietnamese, and we would rather have Vietnam responsible for Laos than people with whom we had practically no contact. We thought that after a Laotian agreement was reached, we could then deal with the Laotian parties a lot more easily, but I fear that we should insist in any dealings with the Laotian Govern-

ment and with Hanoi that we want access to the regions in which there is so much concern.

Senator KASSEBAUM. From the perspective of today, it seems a shame that we didn't really pursue more aggressively the situation and help provide families with some answers, say, in even 1975, 1976, 1978, 1979, while there would have been some opportunities there perhaps to—

Dr. KISSINGER. I met in the eighties with families of the missing in action in Connecticut where I am on weekends. I'm totally out of Government. They gave me some information which I then took up with General Vessey. So the families of the missing in action deserve our fullest compassion, understanding and support.

Senator KASSEBAUM. Yes, they certainly do, and have kept the issue alive, and what is really very sad to me, as I have observed these committees and hearings on the situation, there are those who have taken advantage of the emotions, in some instances, of families, because it's an easy thing to do when you're struggling to find some answers.

Thank you, Dr. Kissinger.

Dr. KISSINGER. Thank you, Senator.

Chairman KERRY. Thank you very much, Senator Kassebaum.

Dr. Kissinger, we are right on the button here of 1:15 p.m., and we will recess now until 2:30 p.m. and look forward to resuming.

Thank you very much.

[Whereupon, at 1:15 p.m., the committee recessed, to reconvene later this same day.]

AFTERNOON SESSION

Chairman KERRY. The hearing will come back to order. Mr. Secretary, my apologies. As you know, we had a brief meeting in the back room there, and I appreciate your patience very much.

Senator Daschle is the next to question for the order in the morning, so I will turn right to him. Senator Daschle.

Senator DASCHLE. Thank you, Mr. Chairman.

Dr. Kissinger, I appreciate very much your sharing your insights with us as you have already today. I think a lot of the concern has revolved around the lack of consistent information, the information provided from various witnesses as well as documents, and I think that is really the effort we are attempting to make here, which is to try and clarify and even correct, if possible, the inconsistencies that exist.

One inconsistency has to do with the announcement that we had not made any secret agreements with regard to the Vietnamese or others. On January 24, 1973 you held a news conference to explain the text of agreements to reporters, and you stated in reference to the return of U.S. POWs, quote, we have been told that no American prisoners are held in Cambodia.

American prisoners held in Laos and North Vietnam will be returned to us in Hanoi, and all American prisoners will, of course, be released within 60 days—I am still quoting—of the signing of the agreement and the signing will take place on January 27. You stated that the return of the American personnel and the accounting for the missing in action is, quote, unconditional.

Although Laos was not a signatory to the Paris accords, you stated that you firmly expected there would be a formal cease-fire in Laos in a short period of time, and in response to a question regarding the existence of any secret understandings, you said there are no secret understandings.

Could you clarify what appears to be a contradiction?

Dr. KISSINGER. No. I do not remember what we did about these understandings.

[Dr. Kissinger consults with Ambassador Bremer.]

Dr. KISSINGER. I think what we did, Senator—I really don't remember exactly—I think what we did was to give their substance without publishing their texts.

Senator DASCHLE. I am not sure I understand.

Dr. KISSINGER. What you have just read, it's the substance of the understanding we had with Hanoi, and this was that we firmly expect this to happen, and I think this is the way it was handled.

Senator DASCHLE. I am not sure I understand. You will have to excuse me. The impression I have is that—

Dr. KISSINGER. Well, we had been assured by the Vietnamese. That was written down.

[Dr. Kissinger consults with Ambassador Bremer.]

Dr. KISSINGER. You see, I just don't remember whether these understandings were made public at the time, and whether this refers to additional secret understandings.

Senator DASCHLE. Well, you were asked if there were any secret agreements, and you said there are no secret understandings. As a matter of fact, then you went on to say that in the sense of secret commitments, but there were statements by each side of its intentions or interpretation of the agreement on which the other side might or might not choose to rely.

Then just within a week there was an affirmation of what has been understood now to be the secret negotiations and commitments made by both sides with regard to Article 21 of the Paris accords and the procedures implementing Article 21 especially having to do with reconstruction.

Dr. KISSINGER. No, no. Oh, that's a different issue. That I can explain easily. I thought you were talking about the cease-fire arrangements for Laos.

Regarding Article 21, we had the following problem: We did not want to create the impression of ransom and reparations. We also felt from a moral point of view it was important that aid for Vietnam be in the context of a voluntary act by the United States to heal what we called the wounds of war.

President Johnson had stated in 1965, and President Nixon had stated at least twice in 1972 our intention to give economic aid, and in February 1972 President Nixon had even given a figure of \$2.5 billion, which was somewhat low.

We, however, did not want to have happen what has happened here—I'm not saying it's a criticism—of having the Vietnamese raise the issue of either ransom or reparations as a formal aspect of the agreement. Therefore we said we would write them a letter which indicated the magnitude of what we would intend to put before the Congress, making clear, however, that the implementation of it would depend on the constitutional procedures.

And we even gave them a paper on the constitutional procedures by which this would be implemented, which made it clear that we had no authority to make such a commitment, which then when I came to Hanoi led to rather acrimonious exchanges, which I'm sure Mr. Codinha has.

Senator DASCHLE. But was not the statement—

Chairman KERRY. He's the unsung star of these hearings, is he not?

Dr. KISSINGER. I beg your pardon? Yes, he's the star of these hearings.

Senator DASCHLE. But even given that explanation, it would appear to me that the statement of January 24 that there was no secret understanding stands in conflict with the truth.

Dr. KISSINGER. Well, we considered this a unilateral statement which we were making. We raised it entirely in these terms. We never made any secret of the intent that we intended to give economic aid.

We created an economic commission which we publicly announced. I'm sure we can find many press conference statements—I'm sure it's in the press conference in which I indicated that we intended to give economic aid. The major concern we had was to keep them from claiming it was a legal obligation to the Vietnamese.

Senator DASCHLE. You make reference to the fact, formal or informal. There were no informal agreements prior to January 24 with regard to reconstruction assistance or any other matters dealing with Article 21?

Dr. KISSINGER. To the best of my recollection now, the question of economic aid was discussed at the conclusion of the other agreement, certainly before January 24. I don't know exactly, but in the later stages of the discussions, and the most serious debate concerned the procedures we would follow. We were insistent on not making it part of the agreement but making it part of the unilateral offer by the President which would then be followed by extended discussions, which would then be followed by constitutional procedures in the United States.

Senator DASCHLE. I may want to follow up on that some more, but I had some other areas that I wanted to pursue with regard to your interpretation.

You mention in your statement on page 6 that we demanded and obtained North Vietnamese promises to release all American prisoners and to assist in accounting of our MIAs throughout Indochina, and especially—or despite—initial insistence by Hanoi that it would negotiate only about prisoners in Vietnam.

What is your interpretation of the difference between an accounting of POWs and the actual release of prisoners who might have been held there?

Dr. KISSINGER. The difference is that identified prisoners had to be released. Accounting concerned those whose fate we did not know that were neither prisoners nor confirmed dead, and in those categories we would insist on an accounting.

Senator DASCHLE. Well, if all they were going to do was to assist on an accounting, how was it that you hoped to retrieve those who may still be held in Laos?

Dr. KISSINGER. Well, Senator, obviously, once they moved from the missing stage to the confirmed prisoner stage, they would be covered by the obligation to return all prisoners.

Senator DASCHLE. Who would, the North Vietnamese would?

Dr. KISSINGER. The North—

Senator DASCHLE. Not the North Vietnamese by the agreement or the protocol. That was one question I wanted to ask, as to why it was we didn't hold them to not just an accounting, but some return of people held in Laos.

Dr. KISSINGER. The North Vietnamese told us that all prisoners held in Laos—they told us this in writing—would be returned. The number was unknown at the time they made the statement, so as soon as we had had confirmation that there were missing that showed up, that we at first carried as missing that showed up as prisoners, you can bet your life we would have held them to the provision that they had to return the prisoners.

Senator DASCHLE. But my point is that there was no requirement for an accounting of people in Laos.

Dr. KISSINGER. No. I read you this morning these interlocking cables in which the Vietnamese said that the provisions with respect to missing that are in the Vietnam agreement would also be applied to Laos and Cambodia.

Senator DASCHLE. Well why, if we had provisions like that, were they not written into the agreement or the protocol?

Dr. KISSINGER. Both sides had a problem. The Vietnamese, for a variety of reasons which I am sure were not to our benefit, wanted to separate Cambodia and Laos from Vietnam. We had a similar reason, because we did not want to establish the principle that Vietnam had a right of permanent intervention in Laos and Cambodia, since the domination of Laos and Cambodia was one of the matters we had been trying to prevent all along. So it seemed to us that this solution that was adopted was the best to meet our concerns.

Senator DASCHLE. You made references this morning to the information you had available to you with regard to numbers and names of people who had been left in Laos. Secretary Laird—

Dr. KISSINGER. Wait a minute, Senator, I did not have that information. I had information about—don't hold me to the number—roughly 80 people about which there were discrepancies, some of which the chairman has mentioned, and some were in Vietnam and some were in Laos. They were not all in Laos.

Senator DASCHLE. Well, I concede that point. There were some in Laos.

Dr. KISSINGER. Yes, that's correct.

Senator DASCHLE. You did not challenge that, and this information, as I understand it, was provided you from the Department of Defense and other sources.

Dr. KISSINGER. It was provided only from, I think, the Department of Defense right after the lists became available in the first week of February 1973, and I took it up in Hanoi on February 10, and 11, 1973.

Senator DASCHLE. So that was the first time you'd ever received information regarding names or numbers of people in Laos, regardless of what you may have received from Vietnam.

Dr. KISSINGER. No, no. I had received information about people in Laos at various times. The figure that I recall off the top of my head now, that I received at the end of January 1973, was that there could be as many as 40 prisoners in Laos. That seemed to be the Defense Department estimate at the time.

Senator DASCHLE. This was in January 1973.

Dr. KISSINGER. It was in January 1973. You have to understand the division of responsibilities in the Government on this matter. The Security Advisor has to deal with every—or at least in those days, I don't think still—item dealing with the field of foreign policy and intelligence that came to the President. I did not have a staff to go into the details of the prisoners.

The way it worked was that when any matter requiring presidential attention concerning prisoners was raised, I would get a briefing from the Defense Department or from the Joint Chiefs as to the numbers.

Second, Secretary Laird had taken a very special and very passionate interest in the prisoners. He kept in frequent contact about it. But we did not make ourselves responsible in the White House for a detailed listing of prisoners. We relied on the agencies to supply those.

Senator DASCHLE. But you had no reason to believe that the information you were being provided was not complete or accurate, that it was the best information.

Dr. KISSINGER. No, I had no reason to doubt the information, and I didn't doubt it.

Senator DASCHLE. Well, given the fact that upon the signing of the accords and the information and the release of the prisoners that were released, that none were released from Laos, you had mentioned this morning that in your heart of hearts, you felt that there may have been some in Laos. Was that a correct interpretation?

Dr. KISSINGER. No, it is not correct to say that none were released from Laos. I believe there were 9 or 10 on the list from Laos, and they were in due course released. That is to say, they were released in the last tranche of the releases.

Senator DASCHLE. Well, we had a list of at least 40, and 10 were released.

Dr. KISSINGER. I don't think we had a list of 40, Senator. You'd have to ask the responsible Defense Department officials. I believe what they did was to make an extrapolation on the basis of the percentages of what we received in North and South Vietnam and took a guess at what they thought was a reasonable figure, extrapolating this to Laos. They did not give me a list of the 40 that they thought were there.

Senator DASCHLE. To what extent did you—

Dr. KISSINGER. Besides, that number was given to me before we had the Laotian list, so I had no basis to make any judgment.

Senator DASCHLE. Well, regardless of how you interpreted the lists or relied upon them, could you expound upon your feelings towards what may remain in Laos? In 1974, after all of these negotiations—

Dr. KISSINGER. Do you mean today?

Senator DASCHLE. That is right.

Dr. KISSINGER. Today?
 Senator DASCHLE. What do you view the circumstances to be in 1974 and today with regard to the information we have concerning POWs in Laos?

Dr. KISSINGER. Actually, Senator, I don't want to be nitpicking—you're talking about 1973?

Senator DASCHLE. 1973, that's correct.

Dr. KISSINGER. It was in 1973 that these events took place. It makes no difference to the case.

Senator DASCHLE. Well, I said 1974 because 1973, January 1973 is when the accord—but it was in the following months that efforts were made to bring the prisoners home.

Dr. KISSINGER. But the most anguishing problems arose, Senator, in the first 6 months of 1973, because that's when it became apparent.

Senator DASCHLE. Exactly.

Dr. KISSINGER. I had hoped that perhaps, after all this anguish of the war, and after not achieving the full objectives, there might be a period in which the Vietnamese would turn to the reconstruction of their country and improving relations with the outside world. If you look at the concluding statements that Le Duc Tho and I made off the top of our heads after a 20-hour negotiating session, you will see that that was a dominant theme. So I did not exclude that this might happen, unfortunately.

And in fact when I went to Hanoi in February, that was one of my hopes. I remember one of the newsmen accompanying me on the plane said, "what you're really hoping for is that Pham Van Dong, who was then prime minister in Hanoi, would turn out to be a Chou En-Lai," and I said "that's right, that's what I would like to see happen." That did not happen.

It became very rapidly apparent that we did not receive an adequate accounting on the missing in action. In the first few weeks you could not be sure what the reason was, because they had just been heavily bombed. It was a chaotic situation in their country.

But then massive infiltration started into the South, and it was clear that they were preparing for another showdown and that they were not even going through the motions of giving us an adequate accounting for the missing in action. That was a very, very painful thing for me, having met with the families quite regularly during that period and feeling a considerable sense of responsibility.

I came to the view by the middle of March—and remember, that's only 4 weeks after I'd been in Hanoi—that we had to resume military operations if we were going to get a reasonable reaction from Hanoi. The strategy that I preferred was that we would resume bombing, resume military operations toward the end of March. I actually wanted to do it before the last tranche of prisoners came back. In my view, we would then request a meeting with Le Duc Tho and go through the whole agreement and get it enforced.

As I pointed out, President Nixon for very good reasons decided not to do this. He wanted to get those 160 people back that we were owed on March 28, and if I had been in his position I would have done exactly the same thing.

Then, in the course of April, we started technical discussions on all these issues, including the POWs, and then there were the negotiations in May-June.

If I could just add one sentence. The chairman, when he and I exchanged impressions about that negotiation, said all you wanted was one sentence, and he was right. That's all I wanted—one sentence to be put in the communique, because the strategy was that once they had an obligation, we would then enforce it with military operations if they didn't carry it out. It isn't all I wanted in life. It is all I wanted at that stage.

Senator DASCHLE. But you had concluded at some point in 1973, following all of this, that our efforts to retrieve MIAs and perhaps even POWs in Laos was unsuccessful, is that a correct statement?

Dr. KISSINGER. Correct, that they were not carrying out the agreement.

Senator DASCHLE. So we knew by the end of 1973 that because our efforts were unsuccessful that there may be people still in Laos.

Dr. KISSINGER. Yes, I always said this to the families—you have records of this. Whenever I spoke to families, whenever I spoke to the press, that's what I said. I never said they were all dead.

Senator DASCHLE. The last question: why were you unable to get the International Red Cross to inspect locations where we suspected Americans were being held?

Dr. KISSINGER. I tell you, you've never dealt with these people, Senator. We would have been thrilled if they had let the International Red Cross come in. They weren't going to have it.

Senator DASCHLE. Thank you. Thank you, Mr. Chairman.

Chairman KERRY. Senator Grassley.

Dr. KISSINGER. I can just tell you, if I may be anecdotal for a moment, what it was like to negotiate with Le Duc Tho. I once wanted to take a break in the negotiations, and I thought I would phrase it in Marxist terminology, so I said, "Mr. Special Advisor, could we take a brief break because objective necessity requires it," which is a Marxist phrase.

I was kept in the room for another half-hour being given a lecture why I had no right to use Marxist terminology.

Chairman KERRY. They were hoping you were going to explode on the spot.

[Laughter.]

Dr. KISSINGER. So all I'm saying, these were not choirboys to deal with.

Chairman KERRY. Senator Grassley.

Senator BROWN. Unlike the Senate.

Dr. KISSINGER. Yes.

Senator GRASSLEY. Dr. Kissinger, I've had an opportunity to hear your statement about the lack of hard evidence about prisoners being left behind, and I want to kind of lead you away from the question of hard evidence for a moment. I do this because, unlike my colleagues, I am not a lawyer, I am a farmer. You are a great statesman and a professor. You are also a great negotiator—and speak in terms of what your gut feeling is.

Yesterday, we heard and hopefully you heard Secretaries Laird and Schlesinger say that they believe that we left men behind, and

as you sit here today—and it is 1992 and it is 20 years' advantage of hindsight, plus, of course, you were in the loop so very intimately back then. What is your gut feeling for whether or not the Vietnamese or the Lao withheld prisoners from us?

Dr. KISSINGER. I've already said this morning, Senator, but I will repeat it. Secretary Schlesinger, who was my colleague and close associate for many years said that his present judgment is that they were left behind.

At the time he was CIA director and then he was Secretary of Defense, so in a sense these were his people. He did not write one memorandum, make one telephone call, or attend one meeting where he made that statement. Therefore as far as we were concerned we did not have the benefit of the information that the committee had yesterday, and I do not remember Secretary Schlesinger's being very shy about expressing his views.

Now, I just want to make clear that we didn't ignore what they thought. Secretary Laird, I am given to understand, has said his views are roughly the same as mine, that we did not know whether they were there.

Now, what is my present gut feeling?

Senator GRASSLEY. Yes, that is right, based upon 20 years of hindsight.

Dr. KISSINGER. My present gut feeling is that probably no prisoners were left behind in Vietnam. Possibly some prisoners were kept behind in Laos, which has been my feeling more or less since the middle seventies. But I'm not dogmatic about this.

I'm perfectly willing to change my mind on the proposition. I have not been able to figure out a reason why they would keep the prisoners, but anyone who produces evidence will have my strong support.

Senator GRASSLEY. Well, I think that right there is a very significant statement that you just made.

Let me go on and refer to May 6. You were on the Larry King Live Show, and you were asked if you thought prisoners were left behind, and here was your response: quote, well, I think it is possible that—I have no evidence of it, but I do not exclude the fact that in Laos there were things, where things were not well-organized, that prisoners were held back in violation of the agreement, and if we ever have any evidence of this, I would be in favor of taking extremely strong action.

I cannot see a rationale why they should hold back POWs. They don't do them any good unless they negotiate for them. But then, I have to say that I have never dealt with a group of people as treacherous as the North Vietnamese leadership. They would stop at nothing to achieve their objectives. End of quote.

Secretary Schlesinger stated it this way: he said, on the question of leaving prisoners behind, his probability assessment for Laos was high, his probability assessment for Vietnam was medium, so what I'd like to have is your probability assessment about the question of us leaving prisoners behind in each, Laos and Vietnam.

Dr. KISSINGER. I can only repeat, Secretary Schlesinger's operational opinion mattered then. Today, it's a historical reflection. What is my present assessment? I'd hate to give it such a figure. I

consider the possibility low in Vietnam and somewhat higher in Laos.

Senator GRASSLEY. You have said that the North Vietnamese were—

Dr. KISSINGER. But I want to make clear that if they were kept in violation of the agreement, it was in total ignorance of the American Government.

Senator GRASSLEY. OK. You have said that the North Vietnamese were treacherous and would stop at nothing to achieve their objectives. This treachery I think it is fair to say has been previously revealed in what we discussed yesterday and maybe some reference today about the so-called French experience after Dien Bien Phu.

Yesterday, General Walters gave us testimony about what he learned from the G-2 and the French Army about the French experience. The lessons learned from this experience should have been a prerequisite for negotiating with the North Vietnamese.

I'd like to read, if I could, from General Walters' deposition about what he describes he learned about this French experience and then who he shared it with, and then I'd like to read from your deposition, and then I have a question.

First of all, from Walters' deposition, question: you were talking about information that you received at some point about a small percentage of known French prisoners of war who were actually returned by Vietnam. Can you tell us again what—to the best of your memory—what the information was that you received on the subject?

Answer: Something like half the prisoners that were known to have been captured alive never came back to France after they reached a deal with the North Vietnamese.

Next question: After they reached a deal that all prisoners would be released.

Answer: That's correct.

Next question: These were prisoners who through some intelligence source were known to be alive.

Answer: They had surrendered at Dien Bien Phu. A large number of them had surrendered at Dien Bien Phu.

Then, skipping a little ways, another question: Who was the person who gave you this information?

Answer: Well, the G-2 or the French Army.

Question: You received this information. Do you remember when it was?

Answer: No.

Question: But it was sometime that you were defense attache.

Answer: Quite early.

Question: And the understanding was that the approximately half of the known POWs who were not returned.

Answer: An enormously high percentage of known POWs had not come back.

Question: But the understanding with this French experience was that—

Answer: They would all be delivered back.

Question: Was the understanding of this officer who told you about the half or more, or more than half who did not get re-

turned, was it that those people had been killed, or was it that those people had been held as prisoners afterwards?

Answer: He presumed they had been killed.

Question: When you learned this information, did you give it to anyone else in the U.S. Government?

Answer: Yes. I reported it to the DIA.

Question: Did you ever have a discussion with Dr. Kissinger about this information that you had about French POWs?

Answer: Yes.

Question: So there's no question in your mind.

Answer: His reaction, as I remember it, was well, they probably won't kill ours because they want more from us than they do from the French. The French, all they wanted was the French to leave. From us, they wanted help to reconstruct.

So he was somewhat more optimistic in the case of ours.

And then, from your deposition, question: Were you familiar with the so-called French experience that the French had suffered after Dien Bien Phu in the Fifties, after the defeat of Dien Bien Phu?

Answer: In a general way.

Question: Are you familiar with the problems that the French had had in making the Vietnamese account for the soldiers that they lost?

Answer: I said, in a general way.

Question: Do you recall Vernon Walters discussing this subject with you, what the French experience had been after the 1954 defeat at Dien Bien Phu?

Answer: I don't remember it specifically, no.

Question: If Vernon Walters had told you that the French had had a problem in accounting with the Vietnamese after the war, would that have made a difference in your negotiations as it applied to the list?

Answer: I don't know. Since he didn't discuss it, I can't say.

Question: You have no recollection of this discussion.

Answer: I have no recollection of this discussion.

Now to the point that I want to ask. What General Walters learned about the French experience obviously made a lasting impression on him. The import of this experience has a direct bearing on the negotiations regarding the lists.

The record is not yet clear as to whether the French experience made as lasting an impression on you, Dr. Kissinger, as it obviously did on General Walters. So I'd like to have you clarify that, but also let me repeat the question that was asked in the deposition.

If Vernon Walters had told you that the French had had a problem in the accounting with the Vietnamese after the war, would that have made a difference in your negotiations as it applied to the lists?

Dr. KISSINGER. As I said in my deposition, I have no recollection of that conversation with General Walters. On the other hand, I have the highest regard for General Walters, and I don't question his recollection.

On the other hand, I knew from other sources that the French had had trouble. I've read books about Dien Bien Phu.

The real question you're raising, Senator, is, were we too trusting in drafting the agreements, and if we had drafted other agreements, would we have received a better accounting? To that the answer is emphatically "no." I believe we drafted the best agreements that were possible.

The Montgomery committee also came to that conclusion. We achieved the best agreement that I believe was possible, and I would be interested, just as an historian, to know what provision that you think we could have put in that would have improved it.

The lacking component was not the statement of obligations. The statement of obligations was perfectly plain. The lacking component was the ability to enforce the agreement. I read this morning a message I sent to President Nixon before the agreement was signed. I can perhaps just read you the operative paragraph again, in which I said:

"We can anticipate no lasting peace in the wake of a consummated agreement, but merely a shift in Hanoi's modus operandi. We will probably have little chance of maintaining the agreement without evident hair trigger U.S. readiness, which may be in fact challenged at any time, to enforce the provisions."

That was my basic view then, and it's my basic view now. It did not matter whether we could have added one or another clause to the agreement. The provisions with respect to the missing in action were perfectly plain. They just didn't carry them out.

Senator GRASSLEY. Let me apologize if need be. I'm not here to say I could do a better job. I could not have done a better job. I'm only here to get whatever information we can of the thought process at that time.

Is it plausible in your mind that the Vietnamese held back prisoners, either in Vietnam or Laos, expecting to receive reparations? I mean, if reparations were their primary concern, and if we didn't give it to them, and then you consider the lesson of the French experience, isn't it logical that the North Vietnamese would have held back some of our men until they got their reparations?

Dr. KISSINGER. Senator, until 1976 they never made that claim, and they needed a lot of hinting from Americans before they even said that.

I don't believe that reparations were their primary objective. Their primary objective was to take over Indochina, and if all they had wanted from us was economic aid, all they would have had to do was observe the agreement, and we would have certainly put it to the Congress.

Senator GRASSLEY. I would only refer once again to the impression that General Walters had, and he was present and intimately involved in a lot of the discussion that was going on.

Dr. KISSINGER. Correct.

Senator GRASSLEY. It was his impression that they were tied together. From another page from a deposition, a question of General Walters:

And what would the priorities be on the North Vietnamese side from the cables and the discussion that they had at the meetings?

Answer: What's in it for us if we do? What will you promise us as reparations for the harm you have done us, and of course, Kissinger would always bridle at that.

Question: So the North Vietnamese had then brought up the reconstruction aid fairly early in the talks.

Answer: Yes.

Question: The North Vietnamese kept raising the reconstruction aid often.

Answer: Obviously, they did not want to appear to be pleading or begging, but they raised it, yes, as though it was their right and due, considering the terrible damages that we had done to their country.

Question: During the time you were in the negotiations with the North Vietnamese with Dr. Kissinger, do you recall him ever seeking your input as military general as to the POW issue specifically?

No, I recall his saying once that they, the North Vietnamese, think that this is a golden trump. They know how badly we want POWs back and they're going to play it for all it's worth, and I agree.

Question: Was there ever any effort by the North Vietnamese, that you were aware of, to link the subject of our payment of reparations to them with a release of prisoners?

Answer: Reparations were a sine qua non for peace. Return the prisoners for everything.

Question: From the North Vietnamese perspective, you mean?

Answer: Yes.

So there was no question that Dr. Kissinger was aware of the North Vietnamese desire to link reparations with the release of U.S. prisoners.

Answer: Not in my mind.

Question: And you say that because you saw Dr. Kissinger discussing this subject with the North Vietnamese.

Answer: I was translating.

Dr. KISSINGER. Senator Smith brought out already this morning a statement from Ambassador Habib, which I confirmed. There's no doubt that the Vietnamese welcomed or desired some reparations. Again, I must say—the chairman calls Mr. Codinha the star of the show. I noticed he smiled when you read the word "bridled," because it showed him that I was not discriminating against him, and I can bridle also at foreigners.

I think you have the records. We're talking about events that happened 20 years ago. I think you will find that I consistently rejected and violently rejected the word "reparations," and Walters says it.

Second, I think you will find that if you look at the record, the issue of economic aid arose only late in the negotiations after the principles of other issues had already been settled. But I won't swear to that; you have the records, so it's very easy to determine. And from that, it is easy to determine the relative priority that was given.

My recollection is not the one of General Walters, who was, after all, doing it from memory of events 20 years ago.

Chairman KERRY. The ubiquitous Mr. Codinha tells me that it was 1971 it was first discussed.

Dr. KISSINGER. It was first discussed, but not in detail. The sequence of events was as follows. There were always groups of negotiations because it always centered around Le Duc Tho being in

Paris. In the first group of negotiations in 1970 it was essentially psychological warfare by the Vietnamese, trying to tell us that they'd break us down. And we never got to any concrete issues. We proposed the neutralization of Cambodia, which they rejected, but it never got to any point.

And then there was the second group of negotiations that started in May 1971 and went until November—but really only through August, but let's say they terminated in November—in which we, for the first time, had actual points. And in those negotiations, I don't know whether it was a specific point but, my instinct is that I would probably have mentioned it separately to the points that we were raising. But it is true we were introducing it at the time.

I do not remember that the Vietnamese responded at that point and that it led to a negotiation on that issue. We settled about five of the seven points, but we could not settle the issue of the future of the government of Vietnam and the timing of American withdrawal.

Senator GRASSLEY. Mr. Chairman, I am done with my questioning. I know my time is out. I just would say that I believe it is plausible that there was this relationship, and I think that we ought to take him up on his suggestion of reviewing the record to see just exactly the relationship and establish it. Because I think it is very plausible.

Chairman KERRY. That will be done; staff is already doing it. You know, I think that we can get a little bit lost if we go back into all of that, but it might have some impact on accountability and obviously we ought to examine it.

Senator ROBB.

Senator ROBB. Thank you, Mr. Chairman. Dr. Kissinger, thank you for your patience today. It has been a long day and Senator Brown and I, who are gunning in the last two positions, assume we might have more time than I think your schedule probably allows at this point. So Senator Brown, I want you to know that I will—

Dr. KISSINGER. I can stay until a little after 4:30.

Senator ROBB. All right. Well we will not truncate our questions quite as much as we might have otherwise.

Chairman KERRY. You should not have said that, sir.

[Laughter.]

Senator ROBB. I was going to say that is a dangerous thing.

Dr. KISSINGER. Was that a mistake?

Chairman KERRY. Senator Kohl will be coming back too, and I think there are a couple of followup questions from the chair and vice chair. So if we could move along here.

Senator ROBB. I understand that there is a vote starting, so you may be saved by an entirely different bell.

If I may, Mr. Secretary, I would like to focus just a minute on the relationship, as you perceived it at the time, between the North Vietnamese and the Pathet Lao. That, of course, has been the focus of a number of the questions, and certainly a lot of the focus here.

We have fairly extensive records on behalf of the North Vietnamese, and a good track record both in terms of our relationships and what have you. We have very little track record, very few records available that relate to the situation in Laos at all.

I wondered if you could, first, simply address the question of the relationship between those two governments, or the entities, at the time that you were engaged in the negotiations, and how much ability we had to track what was actually happening in Laos with respect to any intelligence coming from that area.

Dr. KISSINGER. Our perception of the Pathet Lao was that they were stooges of Hanoi, that they had no independence whatsoever, that they were totally controlled by the Communists in Hanoi. I do not have a precise grasp now of the intelligence we had, except that intelligence was harder to get in that area because of the difficulty of geography, than it was in Vietnam. Not that it was easy to get in Vietnam.

So generally we were dealing there with an area less well known to us, with people with whom we had next to no contact and who were perceived by our Ambassador in Laos, by all our Ambassadors in Laos, to be total tools of Hanoi.

Senator ROBB. I would observe parenthetically, having to the best of my knowledge visited Laos for the first time this year with the delegation when we went over and I made a brief trip to Vientiane and flew over some of the area, which was different. I say to the best of my knowledge for the first time because operating in the Quang Nam Province and over toward the western border, if the maps were not correct you never know exactly where you might have been at any given time.

In any event, the difficulty of both communication and the normal government functions is apparent to anyone who has seen that area and understands the relationships between the central government, to the extent it exists today, and some of the provisional or tribal governments that are in the area, is the reason I ask the question.

Dr. KISSINGER. Incidentally, our view of the Pathet Lao was also shared by the two non-Communist groups in the Laotian Government—Souvanna Phouma, who was at that time prime minister, and the right wing group.

Senator ROBB. I believe it was in 1972 that you cabled General Haig to the effect that it was still a major concern or major provision that you were not able to include in the formal agreement, at least up to that point, the provisions for the Laotian prisoners to the extent that they existed, or Cambodia at that particular time. Yet subsequently, as you have indicated, you were required to accept a side agreement.

Dr. KISSINGER. Could you give us the date?

Senator ROBB. It is not critical, except to suggest that it was regarded, on the basis of a cable—let me see if I have got it here in my notes—I think it was September 27, 1972, if that is helpful.

I cite it only for the point that it was presumed to be a significant issue, and yet ultimately for reasons that you stated a few minutes ago in answer to Senator Daschle's question, I think it was, you accepted the side understanding, I guess is the way it was referred to.

Yet the question I am actually asking at this point is whether or not that was ever formally ratified even by the government as you describe, or whether you had any reason to believe that they participated in that decision, or whether that was largely dictated en-

tirely by the North Vietnamese at that particular moment and whether they had any direct knowledge of what was happening in Laos?

Dr. KISSINGER. I'll answer that in a second. But first, I want to make clear that in my judgment the enforceability of the agreement had nothing to do with whether it was part of the main agreement or part of an associated agreement. The enforceability had entirely to do with the penalties or rewards that Hanoi would receive for carrying out the agreement.

Now what was the second part of the question?

[Dr. Kissinger conferred with Ambassador Bremer.]

Dr. KISSINGER. Oh, did we consider it? Oh, yes, we considered it a significant achievement that they agreed to release prisoners and account for the missing throughout Indochina. But I still have the uneasy feeling that I don't remember your last question.

Senator ROBB. Well it related to whether or not this was a knowledgeable transaction entered into by two parties.

Dr. KISSINGER. Oh, what was the relationship of the Pathet Lao. You see, we had every confidence that Hanoi could make the Pathet Lao do what they wanted. Now did they check with the Pathet Lao and the Pathet Lao debated with them, or did they not, this I cannot tell you. But we were confident and we had never an example to the contrary, that the Pathet Lao would disobey anything that Hanoi wanted them to do.

We looked at this from two points of view. One, if the issue remained a Pathet Lao issue, we would rather deal with Hanoi than with the Pathet Lao because we had very little leverage on the Pathet Lao.

If, by chance, it turned out that the agreement on Laos would be carried out: that is to say that the cease-fire would be honored; that the North Vietnamese would be removed from Laos—all of which was required of them; that a genuine coalition government would be formed, then we were going to deal with the government in Vientiane for whatever it was that Hanoi hadn't delivered.

And we had every confidence that from the government in Vientiane we would have almost unlimited cooperation in getting access to that part of the country. When you look at the record, you will see that an agreement was signed between the Laotian parties on February 21, 1973, or thereabouts, which was part of the basic understandings. And that immediately we instructed Ambassador Godley to establish contact with the Pathet Lao, who would then, in our perception, perhaps have moved into the central government, to take up any issue that was left from the Vietnam agreement. This was our perception of how it would work.

Senator ROBB. But you basically held the North Vietnamese responsible, and, indeed, communicated with them—

Dr. KISSINGER. Absolutely.

Senator ROBB. About everything. And so any information that would have originated, presumably, in the Pathet Lao would have been passed through and, indeed, given any credibility that you attach to it by the North Vietnamese, not independently from the Pathet Lao.

Dr. KISSINGER. Absolutely correct, Senator.

Senator ROBB. Just one other question on this particular topic. There were a total of 10 prisoners, as you have previously indicated, that were returned, 9 of them relevant here. There was a communication somewhere along the line, I cannot cite it at the moment, indicating that a DIA analysis of those prisoners indicated that they were, in fact, captured by the North Vietnamese in Laotian territory, whatever the case may be.

If that is true, it would mean that during the repatriation we received no prisoners, MIAs, back from any territory that was actually under the operational control of the Pathet Lao or anybody that presumed to represent that entity. Is that a fair characterization, first of all?

Dr. KISSINGER. If that is correct, and I also saw the DIA report and I have no reason to believe it isn't correct, then we never received any prisoner that was captured by the Pathet Lao and they might easily have done what the Khmer Rouge did, kill every prisoner.

Senator ROBB. I got the distinct impression—I will not prolong this at this point—in talking to a number of the officials in Vientiane and elsewhere, that they do not exclude that possibility, but do not have anything that would give them records to substantiate anything that might have happened.

They can only say that, in effect, we did not think we were principal participants in the war and every day this huge tonnage of bombs falls on us; we were not favorably disposed to any of your downed aviators or whatever, and in fact we do not have control and the tribes or villages would take their own justice at that particular moment.

Let me just switch, if I may, because the vote is on and we have got the five bells which means—

Dr. KISSINGER. May I?

Senator ROBB. Please.

Dr. KISSINGER. Senator, there is a letter in today's New York Post in reply to an Evans and Novak column last week in which former Ambassador Godley says the following: I have testified under oath that it was my opinion, and that of my associates, when I was in Laos that there were no Americans held against their will by the Pathet Lao. That is to say the Lao Communist forces.

I am not endorsing this one way or the other, but Ambassador Godley is a distinguished professional.

Senator ROBB. Let me, again, because of the constraints of time which may ultimately accrue to your benefit—yesterday—and I was present for much of the testimony, I did not hear this particular statement made but I think I have a verbatim transcript.

Winston Lord, one of your top assistants during the negotiation, said, and I believe this is a direct quote: The President decided not to settle the Paris agreement, presumably with North Vietnam, over the MIA issue. It was a very tough decision.

This seems to connote, I do not like to say an abandonment of the POW/MIA question, but a changed position, and I just wondered if you could clarify for the record your interpretation, either of that statement or of the operative facts?

Dr. KISSINGER. I think you will find that Winston Lord, who was not only a close associate but a close personal friend, had left my

staff by the time this issue came, really, to a head. He went with me to Hanoi and to China, and he left my staff very shortly afterwards.

The issue of enforcing the agreement came to a head in our internal discussions starting in the middle of March. We had some meetings of the Washington Special Action Group and there were many conversations between myself and President Nixon in which both the Washington Special Action Group and the White House team decided that we would enforce the agreement.

The only issue was whether we would do it before the return of prisoners, the last tranche of prisoners, or after. The only thing that Winston Lord could possibly be referring to is that President Nixon decided that he had to have the last tranche of prisoners returned before resuming action, that he could not take the responsibility to the families to delay the return of those 160 prisoners.

And even though, from the point of view of management of crisis I had a different view, from the point of view of humanity and overall policy, President Nixon was absolutely right in making that decision. But it was not a question of scuttling the agreement, because if we had resumed military operations in April it would have had also elements of scuttling the agreement.

Senator ROBB. Dr. Kissinger, I thank you. Several colleagues have voted and returned. Since I have not voted, I will terminate and turn it over—in fact the chairman has now returned. I thank you.

Chairman KERRY. Senator Brown is the next Senator. But could I just ask a question. Did you say it would scuttle the agreement to use military action?

Dr. KISSINGER. I don't believe so, but it would have violated the cease-fire aspect of the agreement.

Chairman KERRY. We did, in fact, do that at one point, correct, in Laos?

Dr. KISSINGER. I have read a North Vietnamese protest that we did it. I don't actually remember that we did it, but it's quite possible.

Chairman KERRY. Senator Brown.

Senator BROWN. Thank you, Mr. Chairman. Mr. Secretary, we appreciate your being here and your answers to our inquiries. I know it is not the most enjoyable exercise you have been through in recent years, but I remain convinced that it is worthwhile and important. Rehashing Vietnam is a difficult and painful task.

During my trip back to Vietnam earlier this spring with the chairman and other members of the Codel, I was struck by a different impression than I have carried for some 20 years. My impression for some 2 decades has been that the United States lost the war in Vietnam. We have not always termed it that way, but that was, at least, my impression. I came back from Vietnam convinced that both sides had lost, both the United States and Vietnam, and I suspect the proof of that is very evident to those who visit the country.

I have been struck too by many things you have said today. I thought one of the most important was the statement in which you challenged critics of the accords to say precisely how they would have achieved a better outcome under those circumstances. I have

listened today with some attention to hear an answer to that challenge and to hear an answer to that question. It is, after all, part of our focus in this inquiry.

I wanted to go through briefly what occur to be potential answers offered today, and ask you to comment and ultimately ask whether or not there were things you might have done, things the President might have done, that could have helped.

First of all, it strikes me that we could have spoken out. When I say we, I mean both the Congress and the executive. You pointed out, I thought rather forcefully, that, indeed, the President did speak out specifically indicating that the Vietnamese had not complied with the requirements for a full accounting.

You have indicated a number of areas where you spoke out, including a statement, quote: "We are extremely dissatisfied with the results of that part of the agreement, referring to the accountability." It strikes me any fair observer would find that you did speak out.

Second, it seems to me that you could demand a full accounting at the negotiating table. As I understand your testimony, you have indicated that you did that on numerous occasions.

Third, one option that seems to present itself is to threaten to bomb North Vietnam, or take other military actions, in the event, they did not come forward with a full accounting. You have indicated that you recommended that.

I have had a chance to peruse the exhibits that are here. The New York Times, the Philadelphia Inquirer, the L.A. Times, Newsweek, Washington Post, Minneapolis Star, the Baltimore Sun, Des Moines Register, the St. Louis Post-Dispatch, the Atlanta Journal, there are perhaps some others: all of them speak out in strong opposition to the President's threat of potential bombing if they did not fully comply.

Fourth, we could resume military operations. You recommended that but the Congress prohibited it, cut off funds, and specifically voted against a Dole Amendment that would have permitted it. I do not want to belabor the point, but I think the debate that took place is very significant.

The resolution Senator Dole offered was this: "These restrictions"—referring to the Eagleton Amendment that would cut off funds for actions in Vietnam or for actions in bombing Cambodia and Laos—"shall be of no force or effect if the President finds and forthwith so reports to the Congress that the Government of North Vietnam is not making an accounting to the best of its ability of all missing in action personnel of the United States in Southeast Asia."

In other words, we had a clear vote in Congress on the question of demanding an accounting from the Vietnamese. If they did not comply with a full accounting, we would have had the ability to bomb.

That measure, as you are well aware, was defeated. Twenty-five members of the Senate voted to demand a full accounting with the threat of bombing. Fifty-six members of the Senate, including 12 that are still members, voted to deny funds for bombing, even if they did not account for our POWs.

Dr. KISSINGER. Correct.

Senator BROWN. It is interesting to me that none of the 12 who voted against forcing a full accounting with threatend bombing have been called here to testify. Only those who recommended that threat be available to force the Vietnamese to comply with the agreement have been.

You, and others that have come, are the source of knowledge and information in this area, and I think it is appropriate to ask you to come. But I do not think the fact that you have been called is any kind of indictment; it is a request for information.

The wounds of Vietnam, I hope, have long healed. But it is worthwhile to look at the reasoning that went on in Congress at the time. This is Senator Mansfield speaking, and I think he speaks eloquently:

"There is no person in this chamber who is not interested, if not more interested in the missing in action, just as we were interested in the release of the POWs, the return of the POWs and the return of U.S. personnel in South Vietnam. I think we ought to face up to the realities and recognize our Government has created a joint committee which is now stationed, I believe, in Bangkok, for the purpose of finding and identifying some 1,400 or 1,500 personnel still listed as missing in action."

Speaking further he says: "And as far as the MIAs are concerned, this Government is making every effort—these are the words of Senator Mansfield—and will continue to do so to attempt to identify them. But if we want more MIAs, we should vote for the pending amendment and we will get them, just as we are getting them now in Cambodia."

The reference there, of course, was the Dole Amendment, voting for the Dole Amendment, his implication being if we bombed again we would have more MIAs. I do not think anyone would question Senator Mansfield's patriotism or his commitment to bringing the MIAs home. He obviously opposed having that threat of force on a matter of principle that he deeply believed in.

Senator Dole's remarks, I think, are poignant. He says, in this one small instance, we are talking about American MIAs: "some are from Florida, some are from Kansas, and some are from Missouri. In that one instance where there is no effort made for an accounting, if the President so finds and reports to Congress, we resume the bombing."

Well the issue was clear then. A majority of the Senate voted not to give the President leverage to force the Vietnamese to account. Would that have worked? I do not know. I suspect there is not a Member on this committee that would know.

But that covers the first four ideas that I have heard mentioned. The fifth is simply to pay ransom. I do not know if you favored that. I suspect, or at least I understand that you did not. But the facts are that Vietnam did not offer to exchange prisoners for a ransom, or at least as far as we know, and Congress acted to deny the reparations payment or the payments that were talked about in the negotiations; that door was closed.

Those are five things that could have been done; I have not heard others mentioned. But it seems to me if someone is going to be critical, they ought to be able to suggest what should have been done or what was not done that could have been done. That is

really my question to you. Looking back with hindsight, is there something more you would have liked to have seen done in that period?

Dr. KISSINGER. Senator, you have stated my view on the matter very well. It would have probably taken me twice as long to make these points. But I agree with the options you presented. I believe that was a fair statement of them. I think the Senate reaction to the Dole Amendment made it very clear what the reaction would be if we made a formal request to resume bombing for the missing in action.

I can think of nothing else we could have done, other than the five points you mentioned which we, in fact, thought of then. Ransom, we never had the opportunity. I probably would have opposed ransom, but it never came up.

Senator BROWN. Is it possible the Administration could have been clearer in making the point that the accounting, a proper accounting, was lacking?

Dr. KISSINGER. We have here only 10 statements that were made between February 8 and July 29, because we only decided to put this together last night. I am sure there are many more. I believe that the fundamental problem was that the division in the country was so great that anything we put forward that could be made to appear as an excuse to increase tensions with Vietnam or to resume military operations was immediately attacked as being either untrue or exaggerated or as a pretext for starting the war again. I believe that we were clear, emphatic, and repeated on that subject.

Senator BROWN. I thank you. I would just simply close, Mr. Chairman, with a personal observation. I have hoped, and I think every Member of this committee has hoped, that we never again enter a conflict in which the Congress of the United States is unwilling to stand behind and stand with the men and women who serve their country in combat.

Dr. KISSINGER. I think that is the crucial lesson of the war. We should not fight a war we are not prepared to win; we should not fight a war unless the Congress assumes responsibility for it together with the Executive Branch.

[The information referred to follows:]

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May 17, 1973, by a vote of 342 to 1 returned S. 49 to the Senate with an amendment in the form of a substitute, S. 49, as returned to the Senate, is virtually identical to the bill originally passed by the Senate with a few minor technical changes and one substantive amendment. That amendment would add a subsection (c) to the new section 1003 of title 38 created by this act. Under the subsection added by the House, all cemeteries within the National Cemetery System are to be considered national shrines and the Administrator of Veterans' Affairs is authorized to permit the flying of the flag of the United States of America at such cemeteries 24 hours a day. It is the committee's understanding that this section is permissive rather than mandatory and that the Veterans' Administration is not opposed to the amendment. Accordingly, I would urge my colleagues to accept the House amendment.

Following passage by the House of Representatives the Senate committee staff has been in contact with representatives of the Veterans' Administration who have pointed out a number of technical problems in complying with first, the transfer of cemeteries and functions by the Department of Army to the Veterans' Administration; and second, the comprehensive study provisions of section 3, S. 49 currently provides for the transfer to be accomplished and the study to be submitted on or before July 1, 1973. Given the present time frame, the committee is sympathetic to requests for extending the effective date. The Senate amendments which I propose today would defer for a 2-month period the transfer of cemeteries and functions from the Department of Army to the Veterans' Administration to September 1, 1973.

With respect to the comprehensive study directed by section 3, the committee notes that the Veterans' Administration submitted a study of veterans' burial benefits on April 2, 1973 in connection with a draft bill which would have, among other things, significantly reduced the amount of burial benefits and sharply narrowed the number of veterans eligible for any allowance at all. That study is of limited value to Congress for two reasons, however. First, to the extent the study was structured to support new highly restrictive burial policy proposals embodied in the administration's draft bill, it is at best irrelevant in light of the bill we adopt today. The study previously submitted will have to be reexamined in light of the policy decisions inherent in the National Cemeteries Act of 1973. Second, the study submitted by the Veterans' Administration does not address itself to a large number of areas which are required to be studied by section 3. Additional time will thus be needed to more thoroughly examine those areas not covered in section 3, particularly subsection (a) (4) and (a) (6) as well as all of subsection (b).

Finally, it should be obvious to the Veterans' Administration that a substantial portion of Congress and the Nation's veteran population are concerned about the right to a burial in a national cemetery and the current lack of existing accessible space. The development of

new Federal cemeteries on a regional basis is an important question to them which simply will not be adequately answered by either a plot allowance or financial assistance to State cemeteries. The committee, by directing a study, is providing the Veterans' Administration with an opportunity to develop a sensible, cohesive, regional plan for new national cemeteries. If they decline to do so, they should be fully prepared to accept the parochial proliferation and fragmentation of the system that many believe will inevitably follow.

To allow the Veterans' Administration adequate time within which to complete its study and make its recommendations, the amendment which I propose today would allow an extension of 6 months to January 3, 1974, for the submission to Congress. Based on informal staff discussions between committees I believe the Senate amendments which I propose today will be acceptable to the House.

Mr. President, I move that the Senate concur in the House amendment with the Senate amendments which I offer today.

THE PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Indiana.

The motion was agreed to.

SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR ENDING JUNE 30, 1973

The Senate continued with the consideration of the bill (H.R. 7447) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

THE PRESIDING OFFICER. The question recurs on the last committee amendment. Who yields time?

Mr. MANSFIELD. Mr. President, I think the Senator from Kansas is seeking recognition.

THE PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I ask unanimous consent that I might offer my amendment to the committee amendment.

THE PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, the Senator is aware of the fact that amendments to the committee amendment are considered in the first degree and that the hour limitation applies.

Mr. DOLE. I am.

THE PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. There are 30 minutes to the side on the amendment.

The clerk will report the amendment.

The legislative clerk read as follows:

On page 58, line 14, insert the following: "Provided, however, That these restrictions shall be of no force or effect if the President finds and forthwith so reports to the Congress that the Government of North Vietnam is not making an accounting to the best of its ability, of all missing in action personnel of the United States in Southeast Asia, or is otherwise not complying with the provisions of article 8 of the agreement signed in Paris on January 27, 1973, and article 10 of the protocol to the agreement concerning the Return of Captured Military Personnel and Foreign Civilians and

Captured and Detained Vietnamese Civilian Personnel."

Mr. DOLE. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment proposed by myself and the Senator from North Carolina (Mr. HELMS): Mr. BARTLETT, Mr. BELLMON, Mr. BROOK, Mr. BUCKLEY, Mr. CURTIS, Mr. CANNON, Mr. GRIFFIN, Mr. HANSEN, Mr. McCLOSKEY, Mr. SCOTT of Pennsylvania, Mr. SPARKMAN, Mr. TART, Mr. THURMOND, and Mr. TOWNE.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, at this time, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I think the basis for the amendment I have offered, stated in its simplest terms, is whether we provide the President any leverage with which to make certain the North Vietnamese are making a responsible effort to account for the Americans missing in action in Cambodia and Laos.

There are still some 1,300 Americans carried as missing in action. Another 1,100 are listed as dead, but their remains have not been recovered.

I do not look upon this vote as simply a money vote, and any assertion that this matter is simply a money matter, going no farther than considerations of the budget, is to my mind a complete fiction.

Mr. President, may we have order?

THE PRESIDING OFFICER. The Senate will be in order.

REAL QUESTION

Mr. DOLE. Mr. President, the real question before the Senate today is whether the Congress—after many years of unavailing efforts by a minority of its membership—is finally going to throw in the sponge and turn Southeast Asia over to the forces of aggression.

The question is whether—after years of combat, thousands of American and Asian deaths, and billions of dollars—the Congress is going to default on the achievements made possible by these sacrifices.

The question is whether—after years of detailed, intensive and exhaustive negotiations—the Congress is going to allow the solemn obligations which resulted from these negotiations to be openly violated without fear of punishment or sanction.

I, for one, have always been proud that in times of considerable doubt, uncertainty and pessimism throughout the history of the Vietnam conflict, the Congress stood firm and refused to enact measures which would have tied the President's hands, militarily, or would have undercut his position at the negotiating table.

I have been proud that a majority in Congress always resisted the temptation to take the expedient course—to grasp for peace at any price. And as a result of this firmness the President was able to achieve our policy objectives and successfully pursue the negotiations.

GREAT ACCOMPLISHMENTS

Now we have an agreement for peace—an imperfect and fragile agreement, perhaps—but an honorable agreement none-

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theless. All American combat forces have been withdrawn from Vietnam. Our prisoners of war are home.

Everything the critics cried so loudly for—and which they would have given anything to achieve has been realized—but with America's honor maintained and our credibility intact.

CANNOT TURN BACK

But with all these accomplishments, much still remains. And now is not the time to throw away these achievements by relaxing our determination or weakening our commitment to our principles. With so much accomplished, with so much behind us, we must not turn away now when ahead lies the real and realistic opportunity of securing full compliance with the Paris agreements of January 27 and the bright hope of a just and lasting peace in this troubled area.

ANOTHER END-THE-WAR AMENDMENT

The Congress has contemplated action similar to this amendment many times before. So-called "End-the-war Amendments" are not new to the Congress. Each time before, in times of peril and doubt the amendments have failed. Now, since January 27, since the signing of the agreement to end the war and restore the peace in South Vietnam, we are told that the situation in southeast Asia has changed in its essentials. The change, we are told, now justifies action by the Congress to cut off funds for military operations.

CLEAR OBLIGATIONS

The situation in Cambodia, particularly, remains essentially unchanged. And as long as it does, the full implementation of the January 27 agreement remains out of reach. Article 20 of that agreement states: clearly that foreign countries shall totally withdraw from and refrain from reintroducing into Cambodia, troops, and military personnel. There is no question that North Vietnam and Cambodia are separate countries. But North Vietnamese troops are being maintained in Cambodia, and they are engaging in hostilities against the government of that country and against the governments of neighboring countries including South Vietnam.

Mr. President, let me stress the real purpose of this amendment. I think it is very simple and very clear. Aside from all the emotion, all the arguments, and all the emotional pleas we have heard yesterday and today, there is one factor, in and of itself, that provides all the argument necessary against full implementation of the Eagleton amendment.

We are all aware of the fact that the United States entered into the January 27 agreement in good faith. This agreement, in all of its terms—including article 20—was drafted jointly by the parties to the conflict. It was mutually agreed to and signed. And it was universally hailed as a just and equitable prescription for peace in an area that all agreed had been, for far too long embroiled in war.

The principle agreed to and embodied in article 20 was that there could be no peace in any part of Southeast Asia unless there was peace in all of Southeast Asia. Specifically, article 20 referred to Laos and Cambodia.

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In Laos, we have a cease-fire. Like the cease-fire in Vietnam, though, it is endangered by the continuing conflict in Cambodia, and until the Cambodian conflict ends the war and the threat of war to all of Southeast Asia will not end.

ACCOUNTING FOR THE MISSING IN ACTION

But aside from these elements, another factor in and of itself provides all the argument necessary against the Eagleton amendment. The January 27 agreement clearly calls for certain positive actions by both sides with respect to the return of those held prisoner and an accounting for the missing in action.

Now, as a result in no small way of the Congress' earlier refusals to pass such legislation, we have been blessed with the return of more than 500 of our prisoners. We are all grateful for their return. As a Nation we rejoiced with the men and with their families at their homecoming.

But in the midst of our rejoicing we cannot ignore the fact that we still lack a full and satisfactory accounting of our missing in action.

Mr. President, at this point I ask unanimous consent to have printed in the Record at the conclusion of my remarks the latest published list of those U.S. military personnel missing in action in Southeast Asia.

There being no objection, the list was ordered to be printed in the Record, as follows:

U.S. MILITARY PERSONNEL UNACCOUNTED FOR IN SOUTHEAST ASIA, AS OF 5 MAY 1973

PREFACE

This is a listing of U.S. military personnel who are unaccounted for in Southeast Asia in connection with the conflict in Vietnam and have not returned to military control.

The listing, totaling 1,321 names, was prepared from casualty reports received as of 5 May 1973.

The grade shown in many instances reflects promotions that have been made while the military members were in missing or captured status. Likewise, the originally assigned service or job number, in many cases, has been replaced in consonance with the program for using social security account numbers for military personnel.

NAME, RANK, AND SERVICE OR SOCIAL SECURITY NUMBER

Abbott, John, CAPT, 505134.
Abrams, Lewis Herbert, LTC, 063788.
Acosta, Robert Joseph, SGT, 300406679.
Acosta-Rosario, Humberto, SSgt, 584100-336.
Adachi, Thomas Tull, TSgt, 589685481.
Adair, Samuel Young, Jr., CAPT, 233624700.
Adam, John Quincy, TSgt, 814504793.
Adams, John Robert, SSgt, 563941205.
Adams, Samuel, SSG, 038240419.
Adams, Steven Harold, MSgt, 481829612.
Adkins, Charles L, SSgt, 32242497.
Albertson, Bobby Joe, SSG, 562544021.
Aldright, John Scott, II, CAPT, 583105501.
Aldern, Donald Deane, CAPT, 554907.
Alford, Terry Lank, CWO, 486788148.
Alford, Gerald Oak, Jr., CAPT, 538389907.
Allard, Richard Michael, SSgt, 380509211.
Allie, Richard Kenneth, MAJ, 094263264.
Allen, Henry Lewis, CAPT, 289803546.
Allen, Thomas Ray, CAPT, 447353066.
Allen, Wayne Clouse, SP5, 015400537.
Alley, Gerald William MAJ, 518940892.
Allinson, David Jay, LTC, 616285604.
Altus, Robert Wayne, CAPT, 647463540.
Alwan, Harold Joseph, MAJ, 070722.
Ammon, Glendon Lee, LTC, 313302775.
Amos, Thomas Hugh, CAPT, 493380196.

Anderson, John Steven, CWO, 479581821.
Anderson, Robert Dale, LTC, 367301515.
Anderson, Warren Leroy, LTC, 368543674.
Andrews, Stuart Merrill, COL, 044528800.
Andrews, William Harold, MAJ, 543358123.
Angstadt, Ralph Harold, LTC, 176324087.
Apodaca, Victor Joe, Jr., MAJ, 52417402429.
Appelhaus, Richard Duane, MAJ, 264960907.
Arb, Randolph Jefferson, CAPT, 094093.
Armistead, Steven Ray, CAPT, 094093.
Armstrong, John William, COL, 449306236.
Arnold, William Tamm, LCDR, 673007.
Arroyo-Baez, Gerardo, SFC, 581685568.
Asbell, Alan Frederick, LT, 700825.
Ashlock, Carlos, SGT, 2121314.
Asterberry, Edwin Lee, MAJ, 451460126.
Austin, Charles David, CAPT, 043229023.
Austin, Ellis Ernest, CAPT, 506493.
Austin, Joseph Clair, COL, 332546557.
Avery, Robert Douglas, CAPT, 093454.
Ayers, Richard Lee, MAJ, 479285152.
Ayres, Gerald Francis, MAJ, 172220890.
Ayres, James Henry, MAJ, 433566845.
Babula, Robert Leo, SGT, 2157584.
Bach, Vladimir Henry, MAJ, 073764.
Bachus, Kenneth Frank, CAPT, 118305791.
Bader, Arthur Edward, Jr., SSgt, 149289028.

Bailey, John Edward, MAJ, 471945333.
Baker, Arthur Dale, MAJ, 455478717.
Balamotti, Michael Dimitri, MAJ, 12124366.
Baldern, Ralph Carol, LTC, 344322879.
Baldridge, John Robert, Jr., CAPT, 493663724.
Bannon, Paul Wendell, MAJ, 417446746.
Barr, William Orian, CAPT, 53935430.
Barnes, Charles Ronald, CAPT, 17121877.
Barnett, Charles Edward, CDR, 428500998.
Barnes, Gregory Inman, LTC, 428504633.
Bates, Paul Jennings, Jr., CAPT, 445424158.
Batt, Michael Leo, SSgt, 299401345.
Bauder, James Reginald, CDR, 560038.
Bauer, Richard Oene, SP5, 574343576.
Bauman, Richard Lee, CWO, 321464724.
Bebus, Charles James, SGT, 582801771.
Becker, Rudy Morris, SP4, 400646057.
Beck, Edward Eugene, Jr., SGT, 2457788.
Bednarek, Jonathan Bruce, LTJ, 115407892.
Becker, Quentin Ruppert, CWO, 315434-900.
Beene, James Alvin, LCDR, 574264.
Begley, Maurice Nelson, COL, 404549449.
Behndt, Roger Ernest, CAPT, 281429469.
Belcher, Glenn Arthur, CAPT, 502404089.
Bennett, Thomas Waring, Jr., CAPT, 256-64387.
Bennett, William George, LTC, 424289130.
Benton, Gregory Lee, Jr., SGT, 5433053.
Bergeron, Charles Lee, CAPT, 043334888.
Beiser, Bruce Carlton, CAPT, 584823237.
Beitel, Robert Donald, CAPT, 325401949.
Beyer, Thomas John, CAPT, 502401533.
Besold, Steven Neil, CAPT, 499487561.
Biediger, Larry William, LTC, 457322892.
Bielohl, Charles Lawrence, CAPT, 010404949.
Bigs, Earl Roger, MSgt, 235461238.
Billips, Norman Karl, CAPT, 094392.
Bingham, Klaus Turgan, SSgt, 227581162.
Bishop, Edward James, Jr., SGT, 043407074.
Biss, Ralph Campion, LT, 088786.
Bivens, Herndon Arrington, SGT, 061443121.
Blackburn, Harry Lee, Jr., CDR, 330444565.
Blackwood, Gordon Byron, MAJ, 557487833.
Blair, Charles Edward, COL, 224528023.
Blodgett, Douglas Randolph, SSgt, 226877700.
Bloodworth, Donald Bruce, CAPT, 545528651.
Boke, Raymond Edward, SSgt, 423663243.
Bodahl, Jon Keith, MAJ, 518400367.
Bodden, Timothy Roy, SSgt, 1680306.
Bodenschatz, John Eugene, Jr., SGT, 2141876.

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Bogard, Lonnie Pat, CAPT, 43585142.
Boggs, Paschal Glenn, MAJ, 478290.
Boglietti, Christine C. Jr., LTC, 101287572.
Bolin, Wayne Louis, LTC, 481342410.
Bood, Ronald Leslie, CAPT, 158381734.
Booth, James Ervin, CAPT, 498424581.
Booth, Lawrence Randolph, CAPT, 23952
057.
Boz, Delmar George, CAPT, 087033.
Borah, Daniel Vernon, Jr., LT, 33538776.
Borden, Murray Lyman, CAPT, 22722196.
Borowski, John Arthur, SSOT, 01494702.
Bora, Joseph Chester, LTC, 02298437.
Borton, Robert Curtis, Jr., SOT, 2225181.
Boulter, Michael Joseph, CAPT, 50556
057.
Bozic, Galileo Fred, COL, 518051947.
Boston, Leo Sydney, MAJ, 329424133.
Bott, Russell Peter, SFC, 11258417.
Bouchard, Michael Lora, LCDR, 044411.
Bowers, Richard Lee, CAPT, 5952149.
Bowling, Roy Howard, CAPT, 57895.
Boyer, Alan Lee, SSOT, 35437318.
Brann, Richard Craig, SSOT, 322328.
Brand, Joseph William, COL, 6115452.
Brashear, William James, MAJ, 54741307.
Brasner, Henry Paul, MAJ, 14581601.
Brasner, Richard, CAPT, 58838412.
Brennan, Herbert Owen, COL, 50206085.
Brett, Robert Arthur, Jr., LT, 51148274.
Breuer, Donald Charles, CAPT, 08756409.
Bridges, Jerry Glen, SSOT, 322328.
Briggs, Ernest Frank, Jr., SSOT, 42356559.
Briggs, Ronald Daniel, CAPT, 17850570.
Brinkmann, Robert Edwin, COL, 061225
063.
Brooks, Edward James, Jr., LT, 060373.
Brooks, John Henry Ralph, SFC, 00750689.
Brooks, Nicholas George, LT, 06248389.
Brooks, William Leslie, LTC, 43448670.
Brown, Donald Alan, MAJ, 53650132.
Brown, Earl Curtis, CAPT, 59344457.
Brown, George S., SSOT, 32344457.
Brown, Harry Willis, SSOT, 32344457.
Brown, Robert Mack, MAJ, 18234545.
Brown, Wayne Gordon, II, CAPT, 53338993.
Brown, Wilbur Ronald, MAJ, 53338993.
Brown, William Theodore, SSOT, 32344457.
Bryant, Charles Richard, LTC, 52338981.
Bryant, Robert Wallace, Jr., COL, 06228
220.
Brusker, John Martin, MAJ, 54444047.
Buckley, Louis Jr., SFC, 35424034.
Bull, Kenneth Richard, LCDR, 32722019.
Burdick, Edward Burke, COL, 20230082.
Burdick, Charles Willis, Jr., LTC, 21136
942.
Burke, Michael John, SOT, 210269.
Burnett, Sheldon John, LTC, 35387149.
Burnham, Donald Dawson, MAJ, 41832857.
Burnham, Mason Irwin, CAPT, 543420275.
Burns, Michael Paul, SSOT, 46174305.
Burns, Jon Thomas, CAPT, 58344814.
Burns, Albert Wayne, SSOT, 43890673.
Burns, John Robert, CAPT, 43263972.
Burns, Robert Edward, LTC, 04230233.
Butler, James Edward, CWO, 24180976.
Butt, Richard Leigh, CAPT, 23954188.
Byrum, Neil Stanley, CAPT, 44044123.
Byrd, Hugh McNeil, Jr., CAPT, 40280189.
Calhoun, Johnny C., SSOT, 25585772.
Cameron, Kenneth Robbins, CDR, 544612.
Cameron, Virgil King, LCDR, 677930.
Campbell, William Edward, COL, 45837785.
Canfield, James Kenneth, TSOT,
21250907.
Capling, Edwin Rex, LTC, 53022414.
Cappell, Charles Edward, LTC, 03801035.
Carns, Franklin Angel, MAJ, 53944337.
Carlton, James Edmund, Jr., CAPT, 087496.
Carpenter, Nicholas Mallor, LT, 062450.
Carroll, Patrick Henry, CAPT, 31194274.
Carroll, Daniel Lewis, CAPT, 53158327.
Carter, Dennis Ray, SOT, 378425478.
Carter, James Louis, COL, 32232453.
Cartwright, Billie Jack, CAPT, 514874.
Case, Thomas Franklin, LTC, 41140601.
Casey, Donald Francis, COL, 41545586.
Castillo, Richard, MAJ, 485480118.
Castro, Alfonso Roque, CAPT, 53338981.
Cavender, Jim Ray, CWO, 53672077.

Chambers, Jerry Lee, MAJ, 445343594.
Champion, James Albert, SOT, 45786484.
Charney, Paul Claude, LCDR, 047707.
Chavez, Gary Anthony, CAPT, 10034238.
Cheatnut, Joseph Lyont, LTC, 47324636.
Chiarello, Vincent Augustus, CAPT, 06132
7063.
Chippman, Ralph Jim, CAPT, 524567477.
Christensen, Allen Duane, SFC, 504524042.
Christensen, John Michael, LT, 320604
980.
Christensen, William Murry, LCDR, 676700.
Christiano, Joseph, COL, 12113753.
Christiansen, Eugene F. SFC, 56274498.
Cichon, Walter Alan, SSOT, 14638410.
Cichon, Richard Amer, MAJ, 510360307.
Cioppo, Sean Preston, SSOT, 30181407.
Clark, Jerry Prosper, CWO, 478188130.
Clark, John Calvin II, CAPT, 46870333.
Clark, Lawrence, SFC, 00221453.
Clark, Philip Spratt Jr., LT, 54758922.
Clark, Robert Champ, LT, 044670.
Clark, Robert Alan, LTJG, 534685703.
Clark, Stanley Scott, COL, 586204571.
Clark, Thomas Edward, CAPT, 174281870.
Clarke, Fred Lee, SFC, 327428062.
Clarke, George William, Jr., CAPT,
22650591.
Claxton, Charles Peter, LTC, 32231659.
Clary, Peter McArthur, CAPT, 04932322.
Clem, Thomas Dean, CAPT, 053383.
Cline, Curtis Roy, SOT, 57827855.
Clinton, Dean E., CWO, 354401702.
Coady, Robert Franklin, MAJ, 52848596.
Cobelli, Earl Glenn, MAJ, 344327801.
Cochrane, Devorion C., SSOT, 03470828.
Cohn, Harry Bob, SSOT, 320607890.
Coburn, James Derwin, SFC, 45315803.
Cole, Legrande Opden, Jr., LCDR, 067782.
Cole, Richard Milton, Jr., TSOT, 12522584.
Coleman, Jimmy Lee, SOT, 43443454.
Collamore, Allan Philip, Jr., LCDR, 043410.
Collins, Richard Frank, CDR, 547443207.
Collman, William Glen, LTC, 106245729.
Collwell, William Kevin, SFC, 07712923.
Condit, Douglas Craig, CAPT, 04342572.
Conger, John Edward, Jr., SOT, 577486141.
Conklin, Bernard, LT, 11245460.
Conlon, John Francis III, CAPT, 50130087.
Connell, James Joseph, LCDR, 047488.
Conder, Lorenza, CAPT, 25763222.
Connelly, Vincent John, LT, 3026018.
Connor, Charles Richard, MAJ, 065603.
Consovo, John Wadsworth, Jr., CAPT,
40354489.
Cook, Donald Gilbert, MAJ, 078794.
Cook, Glenn Richard, CAPT, 20681818.
Cook, Kelly Francis, COL, 50301079.
Cook, William Richard, COL, 67412561.
Cooley, David Lee, CDR, 00004.
Coons, Henry Albert, CDR, 009448.
Cooper, Richard Walker, Jr., CAPT,
212405139.
Cooper, William Earl, COL, 25410487.
Copeck, Joseph Bernard, Jr., LT, 32047347.
Copley, William Michael, SSOT, 54701441.
Corbett, Gilland Wake, COL, 52207722.
Cordova, Sam Gary, CAPT, 55154044.
Cornwall, Leroy Jason III, CAPT, 27567611.
Cormat, Robert Gordon, Jr., CAPT, 418963
400.
Cradock, Randall James, CAPT, 44144549.
Craig, Philip Charles, LCDR, 673504.
Crain, Carroll Owen, Jr., CDR, 545481.
Cramer, Donald Martin, CWO, 589645147.
Craven, Andrew Johnson, SSOT, 24741561.
Cramer, James Edward, Jr., SFC, 494222
922.
Cread, Barton Sheldon, LT, 116349440.
Cresney, Dennis Clarke, CAPT, 53454278.
Crew, James Alan, CAPT, 178320780.
Crews, John Hunter, III, CAPT, 21106156.
Crisman, Frederick Lewis, CWO, 238767
075.
Crosby, Herbert Charles, CAPT, 25722905.
Crosby, Richard Alexander, SSOT, 633407
989.
Cross, Ariel Lindsey, CAPT, 0100371.
Crossman, Gregory John, CAPT, 367407353.
Crosson, Gerald Joseph, Jr., CAPT, 106345
431.
Crus, Carlos Rafael, CAPT, 50046176.
Cunningham, Kenneth Leroy, SFC,
322423972.
Curran, Patrick Robert, LT, 0103427.
Cushman, Clifton Emmett, MAJ, 479403818.
Cuthbert, Bradley Gene, MAJ, 483421851.
Cuthbert, Stephen Howard, CAPT,
557581168.
Czerwiec, Raymond George, SSOT,
325357898.
Daffron, Thomas Carl, CAPT, 325389914.
Dahlill, Douglas Edward, SSOT, 28403121.
Dahley, Douglas Vincent, SSOT, 363361556.
Dale, Charles Alva, MAJ, 52449639.
Danielson, Benjamin Franklin, CAPT,
471461299.
Danielson, Mark Giles, CAPT, 52954454.
Darcy, Edward Joseph, SSOT, 00754567.
Dardano, Oscar Molas, Jr., COL, 45423239.
Darr, Charles Edward, LT, 45621006.
Davies, Joseph Edwin, CAPT, 52740401.
Davis, Brent Eden, CAPT, 064894.
Davis, Charles Brown, Jr., COL, 25722444.
Davis, Daniel Richard, CAPT, 25054271.
Davis, Edgar Felton, MAJ, 23806583.
Davis, Francis John, LCDR, 483421873.
Davis, Gene Edward, SFC, 513341556.
Davis, Ricardo Gonzalez, SFC, 52867113.
Davis, Robert Charles, MAJ, 32844037.
De Soto, Ernest Leo, LT, 52322316.
Deane, William Lawrence, MAJ, 28744437.
Detobianchi, Samuel Mackal, CAPT,
425801794.
Detrich, Charles Edward, CWO, 115023632.
Dennison, David Stanley, SFC, 54450308.
Dennany, James Eugene, LT, 33461052.
Dernack, William Roy, SSOT, 20438116.
Dennison, James Richard, CDR, 003786.
Dennison, James Arden, CDR, 623395.
Dennison, Terry John, SFC, 589462872.
Derricksen, Thomas G. II, MAJ, 589462872.
Deuter, Richard Carl, LT, 52322316.
Derwalski, Berford John, TSOT,
11037488.
Dexter, Rennie Lee, TSOT, 54048134.
Di Tommaso, Robert Joseph, CAPT,
06248940.
Diamond, Stephen Whitman, CAPT,
06023007.
DiMatteo, Delma Ernest, CAPT, 252709402.
DiMatteo, William Calvin Jr., LTC, 44830308.
Dingwall, John Francis, MGTC, 041266.
Dix, Craig Mitchell, SFC, 57150184.
Doby, Earl, MAJ, 54035418.
Dodds, Edward Ray, SFC, 22844343.
Dodds, Ronald Wayne, LCDR, 637455.
Dodds, Ward Kent, COL, 51407047.
Dolan, Thomas Albert, SFC, 22063297.
Donahue, Morgan Jefferson, CAPT,
56057354.
Donnelly, Verne George, CDR, 53330105.
Donovan, Michael Leo, CAPT, 51346061.
Dooley, James Edward, LT, 065608.
Dotson, Jefferson Scott, CAPT, 578564108.
Douglas, Thomas Evan, SSOT, 183139.
Downing, Donald William, MAJ, 38330977.
Doyle, Michael William, LCDR, 180329556.
Drac, Bruce Chalmers, CAPT, 08320855.
Duckett, Thomas Allen, CAPT, 58700245.
Dudash, John Francis, LTC, 156307482.
Duy, John Everett, CAPT, 00540618.
Dugan, Thomas Wayne, LTC, 18324065.
Dugan, William Young, MAJ, 433507757.
Duncan, Robert Ray, LT, 688554.
Dunlap, William Charles, CWO, 58136328.
Dunn, Joseph Patrick, LT, 007584.
Dunn, Michael Edward, LCDR, 678864.
Dusing, Charles Gale, SFC, 50414537.
Duvall, Dean Arnold, SSOT, 306484378.
Dzykowski, Robert Raymond, MAJ,
066244784.
Dye, Melvin Carnilla, SSOT, 406629428.
Eads, Dennis Keith, CWO, 53280633.
Earl, David John, MAJ, 254548457.
Eaton, Curtis Abbot, COL, 03909351.
Eaton, Norman Dale, COL, 44220081.
Echaris, Joseph Ygnacio, MAJ, 54040834.
Echevarria, Raymond Louis, SFC, 52443
120240934.
Eckley, Wayne Alvin, SSOT, 541333958.
Ecklund, Arthur Gene, CAPT, 52860007.
Edgar, Robert John, CAPT, 094940314.
Edmondson, William Roy, CDR, CAPT,
437503997.

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Edmunds, Robert Clifton, Jr., CAPT,
27561114.
Edwards, Harry Sanford, Jr., LCDR, 081262.
Egan, James Thomas, Jr., CAPT, 089946.
Eldridge, Norman Edward, CDR, 586824.
Ellers, Dennis Lee, CAPT, 47940933.
Elkins, Frank Callahan, LCDR, 585106.
Ellis, Robert Malcolm, MAJ, 621226214.
Elliott, Andrew John, CWO, 503005143.
Elliott, Jerry W., SSOT, 419329740.
Elliott, Robert Thomas, SOT, 42996982.
Ellis, Billy Joe, SSOT, 414847348.
Ellis, Randall Shelley, SSOT, 247803222.
Ellis, William, Jr., SSOT, 247742465.
Ellison, John Cooley, CDR, 549818.
Elzinga, Richard Gene, CAPT, 563545526.
Emrich, Roger Gene, LCDR, 068181.
Engelhard, Erich Carl, LTC, 72280794.
Englander, Lawrence Jesse, SSOT,
567589129.
Enriquez, Danny Day, CAPT, 42867104.
Erickson, David Wayne, SSOT, 238432.
Espenbeld, John Lee, LTC, 205282020.
Ester, Walter O. II, LT, 060589.
Etocin, Michael John, CDR, 602678.
Evans, Cleveland, Jr., SSOT, 5133790.
Evans, James Joseph, CDR, 594789.
Evrt, Lawrence Gerald, MAJ, 520365967.
Fallen, Patrick Martin, COL, 57915823.
Fanning, Hugh Michael, CAPT, 090858.
Fanning, Joseph Peter, CAPT, 111342306.
Fatherson, Fieldin W., III, CAPT,
26430058.
Feldhaus, John Anthony, LCDR, 632728.
Felleness, Charles Richard, SSOT,
39354700.
Fellows, Allen Eugene, COL, 47728088.
Fenster, Charles Frederick, SOT, 32946872.
Ferguson, Douglas David, CAPT, 53461052.
Ferguson, Walter, Jr., SSOT, 12364208.
Fickler, Edwin James, CAPT, 093094.
Fickler, Clifford Wayne, MAJ, 46258781.
Finley, Dickie Wayne, SOT, 48030878.
Finn, William Robert, LT, 458707343.
Finney, Arthur Thomas, COL, 40332859.
Finney, Charles Albert, CAPT, 049492.
Fincher, Richard William, SOT, 2319988.
Fincher, Donald Ellis, COL, 54120003.
Fisher, Donald Garth, LTC, 176341908.
Fitzon, Crowley James, Jr., LTC, 042262742.
Fitz, Richard Allan, SSOT, 019146458.
Fitzgerald, Joseph Edward, SSOT, 02439043.
Fitzgerald, Paul L., Jr., SSOT, 258708912.
Flanagan, John Norles, CAPT, 253447408.
Fleming, Horace Ripley III, CAPT, 093919.
Foley, Brendan Patrick, LTC, 107345319.
Forman, William Stannard, LCDR, 628258.
Forrester, Ronald Wayne, LT, 44748543.
Fors, Gary Henry, CAPT, 090870.
Forster, Frederick John, LT, 710369.
Foster, Marvin Lee, LTC, 462340735.
Foster, Paul Leonard, SSOT, 406789264.
Foulke, Ralph Eugene, Jr., LT, 708303.
Fowler, Donald Randall, SFC, 25829897.
Fowler, James Alan, MAJ, 502302458.
Francisco, San Dewayne, CAPT, 533385087.
Franklin, Charles Edward, LTC, 292289366.
Frawley, William David, LCDR, 645118.
Frederick, John William, Jr., CWO, 062847.
Frederick Peter Joseph, COL, 123160402.
Frederick, William V., MAJ, 268509848.
Frenzy, Edmund Henry, AFPC, 7889918.
Fryar, Bruce Carlton, LT, 32838720.
Fullam, Wayne Eugene, LTC, 411807189.
Fuller, James Ray, MAJ, 540385725.
Fuller, William Otis, MAJ, 449483718.
Fullerton, Frank Eugene, CDR, 606657.
Gage, Robert Hugh, SOT, 212854.
Galbraith, Russell Dale, CAPT, 27398085.
Gallagher, John Theodore, SSOT, 141340
325.
Galvin, Ronald Edmond, ATC, 5363035.
Ganley, Richard Owen, MAJ, 001302355.
Gance, Berman Junior, SFC, 268920673.
Garcia, Ricardo Martinez, SFC, 454864643.
Gardner, John Garrett, CAPT, 091772.
Garwood, Robert Russell, PFC, 2089669.
Gates, James Wayne, MAJ, 728122342.
Gatwood, Charles Hue, SOT, 2381218.
Gatwood, Robin Frederic, Jr., CAPT,
240834551.
Gauthier, Dennis Lee, SOT, 37354696.
Gee, Paul Stuart, CAPT, 094720.
Geist, Stephen Jonathan, SSOT, 217444535.
Gerstel, Donald Arthur, LCDR, 32330327.
Gervais, Donald Peter, SFC, 434584215.
Getchell, Paul Everett, MAJ, 003329111.
Giammarino, Vincent Frank, SSOT,
101307835.
Gianangeli, Anthony Robert, LTC,
17623974.
Gilbert, Paul Paris, CAPT, 457700005.
Gilchrist, Robert Michael, CAPT, 522480807.
Gillen, Thomas Eldon, LTC, 514245415.
Gist, Tommy Emerson, MAJ, 448344335.
Gissano, William Albert, Jr., LCDR, 063085.
Glover, Calvin Charles, MSO, 27944648.
Glover, Douglas J., SSOT, 120341457.
Goddwin, Solomon Hughes, CWO, 058722.
Goff, Kenneth B., Jr., CAPT, 032333261.
Goldberg, Lawrence Herbert, LTC, 47197641.
Gold, Edward Frank, CDR, 618577.
Gomez, Robert Arthur, CAPT, 26864421.
Gonzalez, Jesus Armando, SSOT, 46112107.
Goodwin, Charles Bernard, LCDR, 046711.
Goss, Bernard Joseph, COL, 12220615.
Gould, Frank Alton, MAJ, 101234033.
Gourley, Laurence Lee, CAPT, 48154799.
Govan, Robert Allen, MAJ, 579443730.
Grace, James William, CAPT, 49580820.
Graf, John George, LCDR, 570242133.
Graf, Paul Leroy, CAPT, 33842744.
Graham, Allen Upton, CAPT, 42864783.
Graham, Dennis Lee, CAPT, 513035031.
Graham, James Scott, LCDR, 678699.
Graustein, Robert Stewart, LCDR,
005379775.
Gratiot, Francis George, SSOT, 05181944.
Green, Frank Clifford, Jr., CDR, 437465409.
Green, Norman Morgan, COL, 57719865.
Greenwood, Robert Roy, Jr., MAJ,
224445478.
Greer, Robert Lee, SOT, 1882582.
Gregory, Robert Raymond, LTC, 41362095.
Grilling, David Scott, CDR, 577005.
Grennebach, Earl Wilfrid, Jr., LTC,
052263014.
Grewell, Larry Irvin, SSOT, 43805093.
Griffin, James Lloyd, CDR, 589858.
Griffin, Rodney Lynn, SOT, 48632250.
Griffith, Robert Smith, SSOT, 26042768.
Gross, Christopher A., Jr., SOT,
454721800.
Groth, Wade Lawrence, SSOT, 26048962.
Grubb, Peter Arthur, CAPT, 11234365.
Grubb, Wilmer Newlin, LTC, 197341247.
Guillemain, Louis-Paul, CAPT, 19294158.
Guillet, Andre Roland, SSOT, 04767071.
Guilford, Edward Joseph, SFC, 43838586.
Gunn, Alan Wendell, CWO, 46600854.
Hackett, Harry B., III, CAPT, 34703284.
Hagan, John Robert, LT, 010680.
Hagerman, Robert Warren, COL, 42142897.
Haldy, Michael, Princeton, LT, 72420415.
Hall, William Warren, MAJ, 53541612.
Hall, Donald Joe, SSOT, 445386183.
Hall, Frederick Mervyn, CAPT, 32680844.
Hall, Harley Hubert, CDR, 54830480.
Hall, James Shreve, SFC, 24180489.
Hall, James Wayne, LCDR, 42349880.
Hall, James Wayne, SOT, 57034484.
Halpern, Roger C., SSOT, 57328842.
Halpin, Richard Conroy, CAPT, 55728842.
Hamilton, Dennis Clark, CWO, 48152330.
Hamilton, Eugene David, LTC, 416409366.
Hamilton, John Smith, LTC, 52541999.
Hamilton, Roger Dale, SOT, 212499.
Hamm, James Edward, CAPT, 54282829.
Handrahan, Eugene Allen, SSOT, 477506728.
Hanley, Larry James, CAPT, 52380512.
Hanley, Terence Higgins, LT, 68748.
Hanna, Kenneth, SSOT, 24464241.
Hansen, Lester Alan, CWO, 52131368.
Hansen, Robert Earl, Jr., LCDR, 680870.
Hanson, Stephen Paul, CAPT, 068857.
Hanson, Thomas Patterson, CAPT,
265446923.
Harber, Stephen James, SOT, 475641261.
Hardy, Arthur Hans, LT, 01840982.
Hardy, John Kay, Jr., CAPT, 23045131.
Harper, Olin, Jr., SSOT, 42149232.
Harley, Lee Dufford, MAJ, 22535214.
Harned, Gary Alan, SOT, 20730219.
Harris, Bobby Glenn, SOT, 460921537.
Harris, Cleveland Scott, CAPT, 42522107.
Harris, Gregory John, SSOT, 2072294.
Harris, Jeffrey Lyndal, CAPT, 585094041.
Harris, Reuben Beaumont, ATCS, 5243859.
Harris, Stephen Warren, TSOT, 46832365.
Harrison, Donald Lee, CAPT, 423680774.
Harrison, Robert Hartman, MAJ, 13330770.
Harrold, Patrick Kandal, CAPT, 51147660.
Hart, Thomas Trammell, III, CAPT,
20652399.
Hartman, Richard Danner, CDR, 613595.
Hartness, Gregg, MAJ, 46848289.
Hartney, James Cuthbert, COL, 080183007.
Harvey, Jack Rockwood, CAPT, 263904353.
Harwood, James Arthur, SOT, 46885016.
Harworth, Elroy Edwin, MSOT, 477449687.
Hasebeck, John Herbert, LT, 009343677.
Hasebeck, Paul Alfred, SSOT, 485524540.
Hassenger, Arden Keith, SFC, 544381218.
Hastings, Steven Morris, SSOT, 50769587.
Haver, Leslie John, COL, 386126673.
Haver, Robert Douglas, CAPT, 02344060.
Hawkins, Edgar Lee, MAJ, 46044453.
Hawthorne, Richard William, MAJ, 068678.
Heggen, Keith Russell, LTC, 46032792.
Heikell, Lucius Lamar, CAPT, 41360478.
Helman, Steven W., SSOT, 46468183.
Helber, Lawrence Neal, CAPT, 061419.
Held, John Wayne, MAJ, 30734033.
Helmich, Gerald Robert, MAJ, 00124900.
Henderson, William Roy, SFC, 29732981.
Henn, John Robert, Jr., CWO, 03182123.
Henninger, Howard William, LTC,
556441178.
Hendry, Ronnie Lee, TSOT, 23878576.
Hensley, Thomas Trust, CAPT, 43850993.
Herrald, Robert Dale, SSOT, 501581908.
Herron, Frederick Daniel, SOT, 58532023.
Herrick, James Wayne, Jr., LT, 48230407.
Herrin, Henry Howard, Jr., PFC, 4232240.
Herrild, Ned Raymond, CAPT, 14130236.
Hess, Peter Dean, CAPT, 535406163.
Hess, Frederick William, Jr., CAPT,
152348408.
Hestle, Roosevelt, Jr., COL, 263303584.
Hewitt, Samuel Eugene, SOT, 2150007.
Hicks, Patricia Wayne, SSOT, 41662814.
Hicks, Terrin Dismore, MAJ, 217223504.
Hilberich, Barry Wayne, CAPT, 47782110.
Hill, Billy David, SSOT, 57704082.
Hill, Gordon Clark, LT, 507587757.
Hill, Robert La Verne, SFC, 30926349.
Hockridge, James Alan, CAPT, 18497627.
Hodgson, Cecil J., SSOT, 45490470.
Hoff, Michael George, CDR, 54268093.
Hoff, Sammie Don, CAPT, 44966610.
Hogan, Jerry Frank, LCDR, 678216.
Holsman, Robert Eugene, CAPT, 066077.
Holguin, Luis Callegos, CWO, 51860623.
Holmy, Tilden Stewart, MAJ, 42635819.
Holmes, David Hugh, MAJ, 02264608.
Holmes, Frederick Lee, LCDR, 58466585.
Holmes, Lester Evan, COL, 32114793.
Holt, James William, SSOT, 45076889.
Holton, Robert Edwin, CAPT, 51740509.
Hopper, Earl Pearson, Jr., CAPT, 526404263.
Horne, Stanley Henry, LTC, 570886181.
Hosken, John Charles, CWO, 29443290.
Hoskins, Charles Lee, CAPT, 51542595.
Houston, Robert Eugene, LTC, 54032388.
Housh, Anthony Frank, SFC, 533387775.
Howard, Lewis Jr., SOT, 254803088.
Howell, Carter Avery, CAPT, 523560631.
Howes, George Andrews, CWO, 31754854.
Hrdlicka, Davis Louis, MAJ, 476280663.
Huard, James Linton, CAPT, 214447169.
Hubert, Eric James, CAPT, 214447169.
Huddleston, Lynn Floyd, CAPT, 441442825.
Hummel, John Ray, CWO, 464748181.
Hunsyruft, Charles J., Jr., CAPT, 229680639.
Hunt, James D., LT, 07782.
Hunt, Leon Andrew, SSOT, 26384480.
Hunt, Robert William, SFC, 22623239.
Hunt, William Earl, SFC, 518357997.
Hunter, Russell Palmer, Jr., MAJ, 042623245.
Huxton, Charles Gregory, SOT, 28138627.
Ibanes, Di Reyes, LT, 702598.
Innes, Roger Burns, LT, 402598.
Ireland, Robert Newell, SFC, 48938809.
Irish, Wayne Charles, CAPT, 441441283.
Irwin, Robert Harry, MAJ, 063306774.
Irwin, Andrew, Jr., CAPT, 143500091.
Jackson, James Wesley, Jr., SOT, 216938.

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Jakorac, John Andrew, SSOT, 310307502.
Jamerson, Larry Carl, SP4, 24466726.
James, Samuel Larry, CAPT, 311720425.
Jarriss, Jeremy Michael, CAPT, 26782789.
Jefferson, James Milton, CAPT, 318285848.
Jefferson, Perry Henry, CAPT, 246280864.
Jeffords, Derrell Blackburn, COL, 246280864.
Joffe, Gith Garth, CAPT, 318212142.
Jensen, George William, COL, 318212142.
Johns, Paul Frederick, SSOT, 218422031.
Johns, Vernon Zigman, SSOT, 218422031.
Johnson, Allen Louis, MAJ, 416504353.
Johnson, Bruce Gardner, MAJ, 382348081.
Johnson, Edward Harvey, MAJ, 540348702.
Johnson, Frank R., Jr., SP4, 247820321.
Johnson, Guy David, CAPT, 311390.
Johnson, Randolph Leroy, SP4, 309503746.
Johnson, William Darrell, SSOT, 240744.
47.
Jones, Bobby Marvin, CAPT, 259728568.
Jones, James E., SSOT, 25335882.
Jones, Louis Parr, COL, 46028573.
Jones, Orrin Clarence, Jr., CAPT, 327480.
90.
Jones, William Eugene, CAPT, 456467226.
Jordan, Larry Michael, LDCR, 677779.
Kahler, Harold, LDCR, 508186441.
Kahler, Richard Raymond, CAPT, 090803.
Kane, Joseph John, Jr., MAJ, 303300842.
Kant, Carl Frederick, LDCR, 51134108.
Kearns, Joseph Thomas, Jr., MAJ, 182260.
101.
Kaiser, John Charles, SSOT, 2030165.
Keller, Jack Elmer, CAPT, 507111.
Keller, Wendell Richard, MAJ, 501224984.
Kemper, Donald Richard, CAPT, 16034.
3115.
Kennedy, Allan Gordon, SP4, 359744738.
Kennedy, James Edward, SP4, 154323333.
Kennedy, John William, CAPT, 22862737.
Kent, Robert Duane, CAPT, 093227.
Kerr, Everett Oscar, MAJ, 02420168.
Ketchum, Scott Douglas, LDCR, 416828301.
Kettner, James Alan, CAPT, 39460501.
Kibbey, Robert Abbott, MAJ, 097283238.
Kiefer, Ernst Philip, Jr., MAJ, 186383773.
Kier, Larry Gene, SSOT, 307884606.
Kilcullen, Thomas Michael, CAPT, 212449.
934.
Kilian, Melvin Joseph, COL, 508167102.
Kilpatrick, Larry Ronald, LT, 239230931.
Kinney, William Arthur, Jr., CWO, 521823445.
King, Charles Douglas, TSOT, 483843892.
King, Donald Lewis, LDCR, 363301873.
Kinkade, William Louis, CAPT, 834466800.
Kipina, Marshall Frederick, SSOT, 32340028.
Kirby, Bobby Alexander, MAJ, 547564031.
Klenn, Donald Martin, COL, 301247583.
Kleind, Dean Albert, CAPT, 514442094.
Klenert, William Elmer, LT, 669232.
Klimo, James Robert, SP4, 363543778.
Klinck, Harrison Hoyt, MAJ, 373589996.
Kline, Robert Earl, LDCR, 303423318.
Klinko, Donald Herman, TSOT, 585446099.
Knabb, Kenneth Keith, Jr., LDCR, 632272.
Knapp, Herman Ludwig, COL, 150204721.
Knebel, Thomas Edward, MSOT, 429971714.
Knight, Henry Clay, CWO, 573584886.
Knight, Larry Dale, CAPT, 540402400.
Knight, Roy Abner, Jr., LDCR, 46321243.
Knutson, Richard Arthur, WO, 476321243.
Kolstad, Thomas Carl, CDR, 613704.
Kommendant, Aado, CAPT, 14381357.
Koonce, Terry Treloar, MAJ, 108301141.
Koons, Dale Francis, CAPT, 27468109.
Koos, Walter, MAJ, 225414958.
Kott, Stephen Jay, CAPT, 083638.
Krausman, Edward L., SSOT, 223786.
Kroboth, Stanley Earl, CAPT, 170389684.
Krommenhoek, Jeffrey Marti, LDCR, 656684.
Kroka, Harold William, Jr., CAPT, 136381665.
Krups, Frederick, CAPT, 190383660.
Kryzak, Theodore Eugene, LDCR, 073263135.
Kuhlman, Robert John, Jr., CAPT, 094382.
Kwortnik, John Charles, LDCR, 173282228.
La Bohn, Gary Russell, SSOT, 36547438.
La Porte, Michael Louis, HMC, 6845414.

Lacey, Richard Joseph, SSOT, 310307502.
Ladewig, Melvin Earl, CAPT, 322548724.
Lafayette, John Wayne, MAJ, 009204103.
Lagerwall, Harry Roy, CAPT, 083301937.
Landaster, Kenneth Ray, SSOT, 219424079.
Lane, Charles, Jr., CAPT, 504501655.
Lane, Glen Oliver, MSOT, 464442176.
Lane, Mitchell Sum, CAPT, 510508177.
Laney, Billy Ray, MSOT, 416508177.
Lannom, Richard Clive, LT, 695317.
Lattimer, Clarence Albert, SSOT, 298677077.
Lauterio, Manuel Alonzo, SP4, 570489445.
Lawrence, Bruce Edward, CAPT, 140348331.
Lee, Charles Richard, LDCR, 459230.
Lee, Leonard Murray, CDR, 624831.
Leeper, Wallace Wilson, CWO, 323604507.
Leet, David Levent, CAPT, 38748788.
Leetun, David Dean, LDCR, 542287872.
Lefever, Douglas Paul, CAPT, 284403908.
Lehnhoff, Edward Wille, Jr., MAJ, 515328411.
Lehrke, Stanley Lawrence, SSOT, 549744896.
Lemmons, William E., CAPT, 515328453.
Lemon, Louis Charles, CAPT, 070245748.
Leon, Leonardo Capistran, CAPT, 103327903.
Lerner, Irwin Stuart, CAPT, 045345808.
Lester, Roderick Barnum, LT, 533424369.
Lester, Roderick Allen, LDCR, 533424369.
Levi, Charles Allen, Jr., SSOT, 2204948.
Lewandowski, Leonard J., Jr., SSOT, 2204948.
Lewis, James W., Jr., SSOT, 2204948.
Lewis, Merrill Raymond, Jr., MAJ, 508320204.
Lida, Robert Leonal, Jr., CAPT, 435448482.
Lillard, William Alan, CAPT, 561469988.
Lilly, Carroll Baxter, MAJ, 301344234.
Lindblad, Charles W., Jr., MSOT, 515328453.
Lindland, Donald Frederick, LDCR, 643940299.
Lindstrom, Ronnie George, CAPT, 47828217.
Linsberger, Harold Benton, MAJ, 460402089.
Link, Robert Charles, CWO, 577466449.
Litch, Albin Earl, CAPT, 323604507.
Luna, Donald Michael, SSOT, 485806185.
Lockhart, George Barry, CAPT, 228583749.
Lodge, Robert Alfred, MAJ, 073328645.
Loheed, Robert Bradford, CAPT, 513133.
Long, John Henry Bothorn, CAPT, 186322.
1028.
Lono, Luther Albert, MAJ, 061191.
Lord, Arthur James, MAJ, 282821941.
Luchi, Albin Earl, CAPT, 323604507.
Lull, Howard Burdette, Jr., SP4, 48837314.
Luna, Robert Purvis, COL, 42331641.
Luna, Donald Alfred, MAJ, 461860413.
Lunsford, Herbert Lamar, COL, 418360155.
Luster, Robert Lee, SSOT, 270457718.
Luttrell, James Martin, SP4, 387327818.
Lynn, Robert Ray, CAPT, 333341142.
Lyon, Donovan Loren, MAJ, 587403670.
MacCann, Henry Elmer, LDCR, 014248625.
MacDonald, George Duncan, LDCR, 32642.
9491.
MacKedana, Lyle Everett, SP4, 475407701.
Macko, Charles, LDCR, 060242450.
Maddox, Nottley Gwynn, COL, 578203156.
Madison, William Louis, SP4, 401442348.
Mages, Patrick Joseph, SP4, 516328958.
Mahan, Douglas Frank, CAPT, 494437222.
Mallon, Richard Joseph, CAPT, 542443320.
Malone, Jimmy McDonald, SSOT, 25078.
2763.
Mamiya, John Michio, SMS, 576283566.
Mangione, Thomas Angelo, SSOT, 276403022.
Marik, Charles Weldon, LDCR, 609277.
Martin, Douglas Kent, CAPT, 062300973.
Martin, John Murray, MAJ, 192316115.
Martin, Larry Eugene, CAPT, 514360996.
Martin, Richard D., SSOT, 571488546.
Martin, Russell Dean, CAPT, 5151068.
Mascari, Phillip Louis, CAPT, 150348504.
Mason, William Henderson, COL, 43224.
7029.
Massucci, Martin John, CAPT, 372387532.
Masterman, Michael John, MAJ, 537321147.
Matuda, Robert Summu, SSOT, 584757423.
Mateja, Alan Paul, CAPT, 40163894.
Mathias, Peter Richard, CAPT, 272384192.
Mauterer, Oscar, COL, 157140389.
Maxwell, Calvin Walter, CAPT, 585031292.
Maxwell, Samuel Chapman, LDCR, 50723.
1374.
May, David Murray, CAPT, 219423003.
Mayer, Roderick Lewis, LDCR, 050974.
Mayerick, Ronald Michael, CAPT, 14734.
0185.
McCain, Marvin Raymond, Jr., SSOT, 418.
502880.
McClary, Georgia Carlton, COL, 441493721.
McCrory, Jack, SMS, 414484391.
McCubbin, Glenn Dwayne, CAPT, 50942.
5320.
McDaniel, Morris L., Jr., LDCR, 254442226.
McDonald, Emmett Raymond, MAJ, 53236.
8991.
McDonald, Kurt Casey, MAJ, 529385132.
McDonnell, John Terence, MAJ, 451892226.
McElhanon, Michael Owen, LDCR, 456507279.
McGar, Brian Kent, SSOT, 55760022.
McGarvey, James Maurice, MAJ, 083206.
McGouldrick, Francis J., Jr., LDCR, 0430.
1024.
McGrath, William Darrell, CDR, 393391.
McKenney, Kenneth Dewey, MSOT, 01534.
4778.
McLean, James Henry, SP4, 517621095.
McLahan, Robert Charles, LT, 094766.
McMurray, Fred Howell, Jr., CAPT, 24872.
3752.
McPhail, William Thomas, CAPT, 41168.
0619.
McPherson, Everett Alvin, CAPT, 090713.
McCarthy, James Lor, CAPT, 457789143.
McCormick, Michael Timothy, LT, 575503223.
McDonald, Joseph William, LDCR, 107383286.
McElwain, James Richard, MAJ, 564432380.
McKittick, James Clifford, CAPT, 249704401.
McLaughlin, Arthur Vincent, MSOT, 012261224.
McMurry, Eugene Thomas, CAPT, 402881018.
McNair, Arthur Stewart, COL, 103222273.
McGarrick, Rick Egbertus, SP4, 300483912.
McGee, Paul Oswald, MAJ, 132343357.
McGee, Michael Howard, SSOT, 064367467.
McGee, Charles Howard, SSOT, 533505753.
McGee, Fredrick Moore, LDCR, 633235066.
McGee, George Bruce, CAPT, 273327829.
McGee, Jacob Edward, MSOT, 363049118.
McGee, Virgil Keith, III, CAPT, 449467654.
McGee, James Hardin, LDCR, 496367881.
McGee, William Michael, MAJ, 363235339.
McGee, Francis Barnes, CAPT, 51406130.
McGee, Richard M., III, CAPT, 264804520.
McGee, Paul Lloyd, CAPT, 550881.
McGee, Charles Worth, CWO, 245425230.
McGee, Carl Dean, LDCR, 477281399.
McGee, Curtis Daniel, CAPT, 466725405.
McGee, Richard Arthur, CAPT, 088678.
McGee, William Patrick, CWO, 401745001.
McGee, Michael, SP4, 567328483.
McGee, James Burton, LDCR, 671748.
McGee, Richard Wille, Jr., LDCR, 673601.
McGee, Richard Edward, SSOT, 2163039.
McGee, Albert Cook, LDCR, 101248920.
McGee, Gilbert Louis, LT, 680883.
McGee, Thomas Barry, CAPT, 150321828.
McGee, Vincent Duncan, CDR, 610064.
McGee, Herbert William, Jr., CAPT, 20222.
9789.
McGee, James Rodney, SSOT, 2158347.
McGee, Jerry Lawrence, SSOT, 240602786.
McGee, Maurice Henry, SSOT, 218449629.
McGee, Thomas, SMS, 364403228.
McGee, Frank David, SSOT, 143380754.
McGee, Manuel Jesus, SSOT, 457807053.
McGee, James Leslie, SSOT, 435889371.
McGee, William David, CAPT, 088630.
McGee, Charles Ely, MAJ, 5087870.
McGee, Edwin Everett, SMS, 241360774.
McGee, James Sheppard, LDCR, 450386434.
McGee, Thomas Raymond, MAJ, 206280578.
McGee, Richard Girard, CAPT, 094480.
McGee, Charles Frank, CAPT, 498445554.
McGee, Merwin Lamphrey, MAJ, 562445730.
McGee, George William, Jr., CAPT, 550716.
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Morris, Robert John, Jr., CAPT, 490324670.
Morrison, Glenn Raymond, Jr., MAJ, 4833.
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Morrison, Joseph Castleman, LDCR, 403302.
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Morrison, Robert David, MAJ, 266284005.
Morrow, Larry Kabe, SSOT, 248949771.
Mossman, Harry Seiber, LT, 50444704.
Mullen, William Francis, MAJ, 074230.
Mullins, Harold Eugene, SMS, 344221011.
Mundt, Henry Gerald, II, CAPT, 462647790.
Munoz, David Louis, SSOT, 573643333.
Murphy, Laron David, CAPT, 259848925.
Murray, Patrick Peter, CAPT, 081840.
Muselman, Stephen Owen, LTJG, 451820306.
Neal, Dennis Paul, CAPT, 244701714.
Neel, Bobby Gene, LDCR, 444230424.
Neilsen, William Lee, MAJ, 514365908.
Neilsen, William Raymond, SSOT, 306441334.
Nelson, Richard Crawford, LDCR, 637782.
Nelson, William Humphrey, COL, 3348.
Nelson, Roger Morton, CAPT, 498318.
Newman, Larry Jerome, TSOT, 507808085.
Newman, Benjamin Byrd, COL, 22261063.
Newton, Charles Vernon, SP4, 459626600.
Newton, Donald Stephen, SP4, 548567637.
Newton, Warren Emory, SSOT, 54338070.
Nichols, Hubert Campbell, Jr., COL, 411437770.
Nicks, Daniel Russell, SSOT, 105403858.
Nobert, Craig Roland, CAPT, 040347347.
Nopp, Robert Graham, LDCR, 514344119.
Nordahl, Lee Edward, LDCR, 558942.
Norton, Michael Robert, SSOT, 236787938.
Nybo, Richard E., TSOT, 545762389.
Nyström, Bruce August, CAPT, 49673.
O'Brien, Kevin, CAPT, 101383625.
O'Donnell, Michael Davis, CAPT, 387443579.
O'Donnell, Samuel, Jr., CAPT, 181347733.
O'Grady, John Francis, COL, 122441190.
O'Hara, Robert Charles, SP4, 464042139.
O'Hara, Thomas Richard, SP4, 485485.
999.
Oida, Ernest Arthur, LDCR, 339282027.
Olson, Floyd Warren, MAJ, 358305318.
Olson, Barry A., SSOT, 473446048.
Olson, Gerald Everett, CAPT, 364540300.
Omaha, Dennis William, CWO, 11270810.
O'Neill, Douglas Lee, WO, 187438773.
Orell, Quintan Roberts, CDR, 355708.
Orr, Warren Robert, Jr., CAPT, 360511827.
Osborne, Edwin Nelson, Jr., MAJ, 225535393.
Ostermeyer, William Henry, CAPT, 26370.
9915.
Ott, William August, MAJ, 53485771.
Overlick, John Francis, MAJ, 125281193.
Owen, Robert Duval, SSOT, 231622319.
Owen, Timothy Samuel, SSOT, 434582259.
Owens, Joe Leonard, COL, 53323823.
Pabst, Eugene Matthew, CAPT, 111946411.
Packard, Ronald Lyle, CAPT, 32494149.
Paddgett, David Eugene, CAPT, 51446505.
Page, Albert Linwood, Jr., MAJ, 03949484.
Page, Gordon Lee, LDCR, 544403346.
Palen, Carl Anthony, SP4, 48184317.
Palencar, Alexander J., III, LDCR, 69309.
Palmer, Gilbert Swain, COL, 16038214.
Palmer, Edwin David, COL, 410401855.
Parker, Robert Joseph, Sr., MAJ, 53322774.
Parker, Frank C., III, CAPT, 189328178.
Parker, Woodrow Wilson, II, CAPT, 336063399.
Parra, Lionel, Jr., CAPT, 091194.
Parley, Edward Milton, MSOT, 236443222.
Parsons, Don Brown, Jr., LDCR, 626400.
Parsons, Donald Eugene, LDCR, 33437228.
Parsons, Michael Duane, CAPT, 37466111.
Pasekoff, Robert Edward, LDCR, 19239577.
Pate, Gary, SSOT, 260727454.
Patterson, James Kelly, LDCR, 684045.
Pattillo, Ralph Nathan, MAJ, 419443328.
Pattison, Kenneth James, SSOT, 20237567.
Paul, Craig Allan, CAPT, 25142777.
Paulley, Marshall Irvin, MSOT, 24683382.
Paulson, Marilyn Leroy, TSOT, 50280149.
Pawlish, George Francis, LT, 08637.
Payton, Donald Elmer, COL, 43346499.
Payne, John Allen, SSOT, 47444491.
Payne, Norman, SP4, 271346334.
Peace, John Darlington, III, CDR, 613862.
Peacock, John Robert, II, CAPT, 576430829.
Pearce, Edwin Jack, TSOT, 192387773.
Pearson, Robert Harvey, CAPT, 584032225.

Pearson, Wayne Edward, MAJ, 358306831.
Pederson, Joe Palmer, SP4, 333229520.
Pemberton, Gene Thomas, COL, 514165256.
Pender, Orland James, Jr., LT, 260663010.
Perisho, Gordon Samuel, LDCR, 035540.
Perrin, Elton Lawrence, MAJ, 087268454.
Perry Randolph Allen, Jr., MAJ, 517382426.
Perry, Ronald Dwight, CAPT, 412702403.
Perry, Thomas Hepburn, SSOT, 043321585.
Peterson, Gaylord Dean, MAJ, 569460724.
Peterson, Delbert Ray, CAPT, 3130438.
Peterson, Mark Allan, LT, 266447199.
Phelps, William, LT, 068402149.
Phillips, Daniel Raymond, SSOT, 201342198.
Phillips, Robert Paul, SP4, 017369052.
Phipps, James Larry, CWO, 361340834.
Pierce, William C., III, CWO, 378480548.
Pietuch, Robert Edward, MAJ, 194256111.
Pittman, Alan Dale, MSOT, 481461134.
Pike, Dennis Stanley, LT, 325303065.
Pike, Peter Xavier, CAPT, 03299224.
Pilkington, Thomas Holt, LT, 689709.
Pirker, Victor John, SSOT, 1971055.
Pitman, Peter Foster, MAJ, 25284853.
Pitt, Albert, MAJ, 071583.
Pitson, John Russell, CDR, 482348880.
Plassmeyer, Bernard Herbert, LT, 498504242.
Plett, Robert Lenwood, Jr., SSOT, 245782233.
Ploewman, James Edwin, LT, 693759.
Pogrebe, Dean Andrew, COL, 51714812.
Polina, George John, CAPT, 182307213.
Polster, Harmon, LT, 29234733.
Pool, Jerry Lynn, CAPT, 48708764.
Poole, Charles Sherman, MSOT, 463420670.
Poore, Russell, Arden, MAJ, 305341974.
Potter, William Joseph, Jr., CAPT, 190289484.
Potter, William Ted, CAPT, 213428006.
Potts, Larry Fletcher, LT, 23184244.
Powers, Lowell Stephen, CWO, 327627059.
Powers, Trues Richard, CAPT, 459299.
Powers, James Arthur, SMS, 411809689.
Powers, Charles Francis, SSOT, 487460147.
Price, Bunyan Durant, Jr., SP4, 342801676.
Price, William Marshall, LT, 347408008.
Pridemore, Dallas Reese, SP4, 372121004.
Pringle, Joe Harold, MSOT, 323239886.
Pruett, Manuel Numeris, SSOT, 482318111.
Pugh, Joseph David, SSOT, 140435880.
Pugh, Dennis Gerald, CAPT, 514011113.
Pugh, Kenneth Ward, PRCS, 3222012.
Putnam, Charles Lancaster, CAPT, 506415.
Pyles, Harry Boyd, COL, 473340328.
Quano, George, MAJ, 053238806.
Quinn, Michael Edward, LDCR, 474320546.
Rackley, Izar William, Jr., LDCR, 482423067.
Ragland, Dayton William, COL, 492348621.
Raisior, Frank Deisell, III, CAPT, 53240575.
Ramos, Rainer Sylvester, CWO, 334488925.
Ramsey, Charles James, MAJ, 079430.
Ramsower, Irving Burns, II, MAJ, 433504023.
Ransbottom, Frederick Joel, CAPT, 43783175.
Rash, Melvin Douglas, TSOT, 226020438.
Rattin, Dennis Michael, SP4, 351446965.
Ratnel, Wesley Dallas, CAPT, 192362410.
Rausch, Robert Ernest, CAPT, 092303692.
Ravencraft, James A., SSOT, 295428267.
Ravenna, Harry M., III, MAJ, 458602239.
Ray, Ronald Earl, SSOT, 451803487.
Raymond, Paul Darwin, CAPT, 051342476.
Read, Charles Harold W., Jr., COL, 26454934.
Reald, Rolfe Keith, SSOT, 417742433.
Reed, James Wilson, CAPT, 275385192.
Rehe, Richard Raymond, SSOT, 554687325.
Reid, Harold Erich, SSOT, 2191245.
Reid, Jon Eric, CWO, 326743578.
Reilly, Edward Daniel, Jr., SP4, 189349638.
Reilly, Lavern George, COL, 476183600.
Reimann, Thomas Edward, MAJ, 470304406.
Renet, Walter A., COL, 504266751.
Reh, Robert Allan, CAPT, 529506881.
Remrod, Ronald Reuel, CAPT, 428901371.
Rhodes, Farris Abel, Jr., CAPT, 247525406.
Rich, Richard, CDR, 545786.
Richardson, Dale Wayne, CAPT, 340347226.

Richardson, Floyd Whitley, COL, 544222363.
Richstiel, David John, CAPT, 050314.
Rickett, David J., CAPT, 26561432.
Ricker, William Ernest, LDCR, 733070.
Rickman, Dwight Gray, LT, 50487537.
Riggs, Thomas F., CWO, 383448377.
Riosch, Marion Lee, SSOT, 873724757.
Roberts, Richard Dean, SSOT, 381466230.
Robertson, John Hartley, MSOT, 417401354.
Robertson, John Leighton, LDCR, 532286699.
Robertson, Leonard, CAPT, 083304569.
Robertson, Floyd Henry, SSOT, 50946564.
Robinson, Kenneth Dale, MAJ, 307323224.
Roby, Charles Donald, COL, 458341715.
Rockett, Alton Craig, Jr., MAJ, 423425877.
Rodriguez, Albert Eduardo, CAPT, 083041423.
Roer, Jerry Lee, CAPT, 462625771.
Romero, Victor, TSOT, 567582875.
Rose, Luther Lee, SMS, 46549734.
Rozenbach, Robert Paul, CAPT, 488442827.
Ross, J. Lynn, Jr., SSOT, 373483111.
Ross, Joseph Shaw, CAPT, 073323224.
Rowley, Charles Stoddard, LDCR, 042321821.
Rozo, James Milan, SP4, 203388189.
Ruffin, James Thomas, LDCR, 558906.
Rusch, Stephen Arthur, CAPT, 144345080.
Russell, Donald Myrick, LDCR, 006304618.
Russell, Peter John, CAPT, 08336721.
Ryder, John Leslie, CAPT, 469507004.
Saavedra, Robert, CDR, 603170.
Sadtler, Mitchell Glen, Jr., CAPT, 460723315.
Sale, Harold Reeves, Jr., CAPT, 241462972.
Sanderlin, William Dale, SSOT, 453709682.
Scharf, Charles Joseph, LT, 56145885.
Schell, Richard John, CAPT, 47348570.
Scherdin, Robert Francis, SSOT, 18331224.
Scheurich, Thomas Edwin, CDR, 593633.
Schiele, James Francis, SSOT, 520521563.
Schmidt, Norman, CAPT, 567383380.
Schmidt, Walter Roy, Jr., CAPT, 0101868.
Scholz, Klaus Dieter, SSOT, 461848981.
Schreckengost, Fred Thomas, SSOT, 1892411.
Schuler, Robert Harry, Jr., MAJ, 123226353.
Schultz, Ronald James, SP4, 51146541.
Schultz, Sheldon D., CWO, 171832314.
Scott, Dale Vandert, LT, 686858.
Scott, Martin Ronald, LDCR, 44204683.
Scott, Mike John, SP4, 081329137.
Seall, Gary Bernard, CAPT, 478475505.
Sebaugh, Vincent Anthony, MAJ, 16822224.
Seigrove, Lee D., Jr., SP4, 288386577.
Seigrove, Michael Anthony, CAPT, 318344213.
Seibert, Robert Russell, ADCS, 4838026.
Serriz, Henry Muir, MAJ, 437354547.
Setterquist, Francis Leslie, CAPT, 471441343.
Sevill, John Wayne, CAPT, 47485911.
Seymour, Leo Earl, SP4, 349703453.
Shafer, Philip Raymond, SP4, 53366848.
Shank, Gary Leslie, LTJG, 508487222.
Shanley, Michael Henry, Jr., SSOT, 359681822.
Shark, Earl Eric, SSOT, 53647575.
Shay, Donald Emerson, Jr., CAPT, 216447100.
Shelton, Charles Ervin, MAJ, 401584899.
Sherman, Peter Woodbury, CAPT, 543163.
Shine, Anthony Cameron, MAJ, 100320329.
Shingledacker, Armon D., CAPT, 26834053.
Shonck, John Reginald, MSOT, 044381865.
Shriver, Jerry Michael, SSOT, 515481628.
Shue, Donald Monroe, SSOT, 24730668.
Shuaway, Geoffrey Raymond, LDCR, 10034688.
Sigafos, Walter Earl, III, CAPT, 203333326.
Silva, Lanes Peter, CAPT, 394364276.
Silva, Claude Arnold, CAPT, 321440344.
Silver, Edward Dean, MAJ, 54358404.
Simmons, Robert Eugene, SSOT, 082420975.
Singer, Donald Maurice, LDCR, 184221121.
Singleton, Daniel Everett, CAPT, 273323253.
Simon, Winfield Wade, MAJ, 077512.
Sittner, Ronald Nicholas, CAPT, 282340789.
Skarman, Orval Harry, SSOT, 2259821.
Skinner, Owen George, LDCR, 293360094.
Skirington, William E., Jr., SSOT, 430368951.
Small, Burt Chauncy, Jr., SSOT, 256742851.
Smith, David Roscoe, CAPT, 27034757.

Smith, Edward Dewilton, Jr. TSOT.
10397602.
Smith, Gene Albert, CDR, 545534.
Smith, George Craig, CAPT, 495424207.
Smith, Halls William, CAPT, 540487787.
Smith, Harding Eugene, Sr., COL.
46027886.
Smith, Harold Victor, LTC, 345200672.
Smith, Mary Winfield, CAPT, 435622196.
Smith, Herbert Eugene, SMS, 54749656.
Smith, Homer Leroy, CAPT, 521872.
Smith, Howard Horton, LTC, 44249234.
Smith, Lewis Phillip, II, CAPT, 198326494.
Smith, Richard Dean, MAJ, 510347474.
Smith, Robert Norman, CDR, 276363449.
Smith, Victor Arlen, CAPT, 220421646.
Smith, Warren Parker, Jr., LTC, 25334414.
Smith, William Arthur, Jr., CWO
21270187.
Smith, William Mark, SGT, 024423114.
Smoot, Curtis Richard, SSGT, 867053512.
Soyland, David Peec, CWO, 503022178.
Sparks, Donald Lee, SGT, 47667373.
Szuarks, Jon Michael, CWO, 818200599.
Spencer, Warren Richard, CAPT, 807445444.
Spillman, Dyke Augustus, CAPT, 48488354.
Spinelli, Domenick Anthony, LCDR, 640059.
Sprick, Doyle Robert, MAJ, 870894.
Springston, Theodore, Jr., LTC, 51477852.
St. Pierre, Dean Paul, CAPT, 39317989.
Stacks, Raymond Clark, CAPT, 32177729.
Stashli, Bruce Wayne, SGT, 232888.
Stamm, Ernest Albert, CDR, 584758.
Standerwick, Robert L., Sr., LTC, 51234688.
Stanley, Charles Irvin, CWO, 28146134.
Stanley, Charles Irvin, CWO, 28146134.
Stanton, Ronald, SSGT, 290467264.
Stark, Willie Ernest, SMSA, 505445888.
Steedman, James Eugene, CAPT, 52164152.
Stein, Martin William, MAJ, 726075104.
Stegman, Thomas, LCDR, 64348.
Stephenson, Mark Lyle, LTC, 523544994.
Stephenson, Howard David, MAJ, 0303227.
Stevens, Larry James, LT, 719561.
Stewart, Jack Thomas, MAJ, 875040156.
Stewart, Robert Joseph, LTC, 57838009.
Stewart, Peter Alpha, MSGT, 030363709.
Stickney, Philip William, LTC, 183344754.
Stinson, William Sherrill, SPS, 419900033.
Stolz, Lawrence Gene, CAPT, 316444799.
Stroobacker, Kenneth Arnold, MAJ, 31639.
397.
Stora, Ronald Edward, LTC, 132449380.
Stowers, Aubrey Eugene, Jr., CAPT, 4
400423.
Strait, Douglas, SPS, 633504837.
Strange, Floyd Wayne, CWO, 562040667.
Stratton, Charles Wayne, MAJ, 45644688.
Stringer, John Curtis, II, CAPT, 4076058.
Strobridge, Rodney Lynn, CAPT, 568344.
Strohlein, Madison Alexand, SGT, 2103.
868.
Strong, Henry Hooker, Jr., CDR, 172309.
Strown, William Harry, CAPT, 3834232.
Suart, John Franklin, MAJ, 314503116.
Sutherland, Robert A., LTC, 23947402.
Scuba, William W., SSGT, 55864643.
Suber, Randolph Bethwell, SSGT, 521.
523.
Sullivan, Farrell Junior, LTC, 45546494.
Sullivan, James Edward, LCDR, 028332.
Sullivan, John Bernard, III, CAPT, 31.
Sutter, Frederick John, CAPT, 494800.
Swanson, John Willard, Jr., MAJ, 848.
168.
Swanson, Roger Wesley, SGT, 4770603.
Swords, Smith, III, MAJ, 547009865.
Sykes, Dell, SGT, 32330321.
Tapp, Marshall Landis, LTC, 2382235.
Tatum, Lawrence Byron, COL, 41180.
Teague, James Erial, LT, 708549.
Temple, Erwin Edward, Jr., LCDR, 06.
Terza, Marjorie Thomas, SGT, 37264.
Terry, Carl Ray, SSGT, 32036818.
Thomas, Daniel Wayne, CAPT, 5065877.
Thomas, James Calvin, SGT, 236110.
Thomas, James Richard, TSOT, 4677.
Thomas, Kenneth Deane, Jr.,
343345062.

Thomas, Robert James, 1LT, 204028104.
Thompson, Donald Earl, LCDR, 071192.
Thompson, George Winston, CAPT, 3130155.
Thompson, William James, LTC, 503388230.
Thornton, Larry G., SMS, 51032131.
Tien, Rainford, MAJ, 506507329.
Tipping, Henry Albert, COL, 204182480.
Todd, William Anthony, SSOT, 074525643.
Tolbert, Clarence Orfield, LCDR, 44809531.
Toomey, Samuel Katsu, III, MAJ, 500401817.
Towle, John Clune, CAPT, 323534797.
Townsend, Francis Wayne, 1LT, 458709151.
Trumpki, Donald Joseph, SGT, 108948598.
Trees, James Allen, MAJ, 43048535.
Trembley, J. Forrest, George, LCDR, 681600.
Trent, Alan Robert, CAPT, 286331758.
Tromp, William Leslie, LCDR, 673906.
Trujillo, Joseph Felix, SGT, 2123535.
Trujillo, Robert Steven, SSOT, 585220470.
Tubbs, Glenn Ernest, SSOT, 45404550.
Tucci, Robert Leon, CAPT, 004589565.
Tucker, Edwin Byron, CDR, 560315.
Tucker, James Hale, CAPT, 76208.
Tucker, Timothy Michael, CAPT, 423541976.
Tyler, George Edward, COL, 367747423.
Uhlmanski, Ralph Edward, SSOT, 277602010.
Underwood, Paul Gerard, COL, 063200384.
Ujey, Russell Keith, LTC, 570404477.
Van, Bendegom James Lee, SSOT, 294500350.
Van Buren, Gerald Gordon, MAJ, 302287453.
Van Dyke, Richard Haven, CAPT, 230432329.
Van Remelaar, Larry Jack, LT, 701554.
Vanden Eykel, Martin D., II, CWO, 321877181.
Vestelus, Milton James, Jr., CDR, 616346.
Vinson, Bobby Gene, COL, 456547170.
Visconti, Francis Edward, CAPT, 063772.
Wade, Barton Scott, LCDR, 118203321.
Wald, Gunther Herbert, SSOT, 16723184.
Walker, Bruce Charles, CAPT, 226862903.
Walker, Michael Stephen, CAPT, 458661117.
Walker, Samuel Franklin, Jr., MSOT, 226545097.
Wallace, Robert McKiale, Jr., LTC, 063285.
Wallace, Michael John, SFC, 377863772.
Walker, Thomas Morris, MSOT, 404680005.
Walling, Charles Milton, MAJ, 529446428.
Walsh, Francis Anthony, Jr., MAJ, 045309910.
Walsh, Richard Ambrose, III, COL, 729447184.
Walters, Donovan Keith, CAPT, 505632354.
Walton, Lewis Clark, SSOT, 037223786.
Wanzel, Charles Joseph, III, CAPT, 120388232.
Ward, Noel Clinton, CAPT, 423748694.
Ward, Ronald Jack, LTC, 411329443.
Ware, John Alan, SFC, 543232632.
Warren, Arthur Leonard, CAPT, 210302728.
Warren, Ervin, SMS, 163598445.
Warren, Gray Donald, CAPT, 423504329.
Waters, Samuel Edwin, Jr., CWO, 244320073.
Watson, Jimmy Lee, MAJ, 244623784.
Watterson, Franklin Lee, CAPT, 55634356.
Wetsmaweller, Courtney, SGT, 294425522.
Welch, Robert John, MAJ, 570224879.
Welsh, Larry Don, SSOT, 512489818.
Welshar, John Thomas, CAPT, 613237153.
Wesban, Gordon James, MAJ, 502203682.
Werdchoff, Michael Ray, SFC, 204532871.
West, John Thomas, CAPT, 214409651.
Westbrook, Donald Elliot, COL, 400236959.
Wetzel, Eugene Lacy, MAJ, 074067.
White, Charles Edward, MSOT, 071365758.
White, James Blaw, MAJ, 461623614.
Whitford, Lawrence W., Jr., CWO, 721104799.
Whitnirt, Warren Taylor, Jr., SSOT, 229632444.
Widja, James Wesley, Jr., MAJ, 140304582.
Widner, Danny Lee, SSOT, 460394432.
Wiggins, Wallace Luttrell, CAPT, 5449073.
Widurn, Woodrow Hoover, COL, 4550370.
Wiles, Marvin Benjamin Chf, LT, 42353537.
Wilke, Robert Frederick, COL, 388189460.
Winkins, George Henry, CDR, 004405.

Wulkinson, Dennis Edward, CAPT,
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Willett, Robert Vincent, Jr, CAPT,
617481051.
Williams, Bullie Joe, MAJ, 436624816.
Williams, David Beryl, CAPT, 43661745.
Williams, David Richard, COL, 406366704.
Williams, Eddie Lee, MSOT, 264502429.
Williams, Edward Wayne, SGT, 263940328.
Williams, Howard Keith, MAJ, 263303398.
William, James Ellis, MSOT, 406687354.
Williams, James Randall, CAPT, 406687293.
Williams, Robert John, CAPT, 424545362.
Williams, Roy Charles, SGT, 454746630.
Williamson, Don Jr., LTC, 400380543.
Williamson, James D., MSOT, 537885533.
Willington, Edward Earl, SGT, 2647018.
Willson, Gordon Scott, MAJ, 514630579.
Wilson, Mickey Allen, WO, 498923796.
Wilson, Peter Joe, SFC, 513241861.
Wilson, Robert Allan, CAPT, 378448062.
Wilson, Roger Eugene, CAPT, 223622041.
Wilson, Wayne Vester, SGT, 2160606.
Wimbrow, Nutter Jerome, III, MAJ,
21436773.
Winningham, John Quintman, TSGT,
558547055.
Winston, Charles C, III, MAJ, 007365004.
Winters, David Marshall, 549586450.
Wistrand, Robert Carl, LTC, 091235922.
Wogan, William Michael, SSOT, 126323589.
Wolfeidt, Wayne Benjamin, LTC, 164242403.
Wolesecky, Donald Joseph, LCDR, 672322.
Wong, Edward Puck Kow, Jr., SP5,
539855931.
Wood, Don Charles, LTC, 537248518.
Wood, Patrick Hardy, COL, 489036651.
Wood, William Commodore, Jr., CAPT,
42464041.
Wooster, John Bowers, LCDR, 685893.
Worrell, Paul Laurence, LT, 698886.
Worth, James Frederick, CPL, 213562183.
Worham, Murray Lamar, CAPT, 458706346.
Worshak, Frederick Joseph, CAPT, 379427-
589.
Wright, Arthur, SP4, 36332629.
Wright, Donald Lee, MSOT, 214366644.
Wright, Gary Gene, COL, 55439427.
Wright, James Joseph, LCDR, 683599.
Wright, Jerry Albert, Jr., LTC, 119541735.
Wright, Thomas Thawson, MAJ, 311231326.
Wroblewski, Walter Francis, GWO, 156941279.
Wyse, Blair Charlton, COL, 022328946.
Wyne, Patrick Edward, CAPT, 263642213.
Yarbrough, William F, Jr., CDR, 697954.
Yonan, Kenneth Joseph, CAPT, 31245630.
Young, Barclay Bingham, CAPT, 312601512.
Young, Charles Luther, SGT, 072384948.
Zich, Larry Alfred, GWO, 80002819.
Zook, David Harzler, Jr., COL, 460641329.
Zook, Harold Jacob, CAPT, 163321621.
Zubke, Daniel Dwight, SP5, 502584006.
Zukowski, Robert John, CAPT, 322404933.

Mr. DOLE Assistance in obtaining in-
formation for an accounting was clearly
and unambiguously included as a mutual
commitment in the January 27 agree-
ment. Such assistance has not been forth-
coming. On January 27, the Defense
Department listed 1,362 Americans in
missing status. Today, 4 months later,
some 1,284 or more of our men have not
yet been accounted for in any manner
and as I said earlier, the remains of some
1,120, who have been declared dead, have
not been recovered.

INTERESTS CONTINUE

We are told, Mr. President, that the
situation in Southeast Asia has changed.
Now that the involvement of American
ground troops has been terminated and
the prisoners have been returned, some
contend we no longer have any proper
concern in that area of the world, not
even a concern in seeing that the peace
agreement is adhered to in respect to our

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missing men. I cannot accept this contention.

The situation has changed. It has changed immeasurably for the better. But the American stake in securing and solidifying a lasting peace in Southeast Asia has not changed.

If the rights of the South Vietnamese people to peace and self-determination and if the American concern for securing the return of our prisoners and a satisfactory accounting of the missing in action were ever legitimate interests of this country, then they are still legitimate interests.

IRRITANCE AND WEARINESS

The country has long since grown weary of war. The country has long since tired of hearing news of American military involvement in Indochina, be it the ground combat of an earlier day or the air operations of today. And, of course, the Congress too, has grown weary of the conflict.

THE COMMITMENT TO GOALS

But if we allow our weariness of the war and our understandable and quite sincere desire to see an end, for all time, of the American military presence in Southeast Asia to lead us to passage of the Eagleton amendment, we would only open up to the North Vietnamese the possibility for continuing their unfettered aggression in the area. And we would quash any hope whatsoever for securing compliance with the peace agreement with respect to our missing men.

Strong action, courage, and commitment to our principles brought about the successful negotiation of the Paris agreements. The same resolve can now secure compliance with those agreements.

I am not prepared to accept the consequences of a legislated abrogation of the Paris agreements. Of course, I am weary of this fighting; I yield to no Member of this body in desiring a peaceful and just solution to the differences which have divided this region for so long.

But we have a responsibility, an obligation to see our policy successfully through to a lasting peace. And we have an obligation to the nearly 1,300 Americans who are missing throughout Southeast Asia—in North and South Vietnam, Laos, and Cambodia.

LIMITING AMENDMENT

Therefore, I am joining with my colleague from North Carolina (Mr. HARRIS) in offering an amendment to limit the effect of the Eagleton amendment to the supplemental appropriations bill as long as the North Vietnamese are not complying with their obligations in regard to our missing men.

There can be no justification or rationalization for defaulting on our obligations to nearly 1,300 Americans and to their families, loved ones, and friends who wait and wonder at their fates.

It is difficult for those of us who are not directly affected to grasp the agony, the nightmare being lived by the parents, wives, and children of these missing men. They are in a terrible state of suspense. Their lives, their business affairs, their legal and financial status is plagued by uncertainty. They desperately want to

CHAPTER I

The Vietnamese people's fundamental national rights

Article 12

The United States and all other countries respect the independence, sovereignty, unity, and territorial integrity of Vietnam as recognized by the 1954 Geneva Agreements on Vietnam.

CHAPTER 11

Cessation of hostilities—withdrawal of troops
Article 2

A cease-fire shall be observed throughout South Vietnam as of 2400 hours G.M.T. on January 27, 1973.

At the same hour, the United States will stop all its military activities against the territory of the Democratic Republic of Vietnam by ground, air and naval forces, wherever they may be based, and end the mining of the territorial waters, ports, harbors, and waterways of the Democratic Republic of Vietnam. The United States will remove, permanently, deactivate or destroy all the mines in the territorial waters, ports, harbors, and waterways of North Vietnam as soon as this Agreement goes into effect.

The complete cessation of hostilities mentioned in this Article shall be durable and without limit of time.

Abstract

The parties undertake to maintain the cease-fire and to ensure a lasting and stable peace.

As soon as the cease-fire goes into effect:

(A) The United States forces, and those of the other foreign countries allied with the United States and the Republic of Vietnam shall remain in-place pending the implementation of the plan of troop withdrawal. The Four-Party Joint Military Commission described in Article 16 shall determine the modalities.

(B) The armed forces of the two South Vietnamese parties shall remain in-place. The Two-Party Joint Military Commission described in Article 17 shall determine the areas controlled by each party and the modalities of stationing.

(C) The regular forces of all services and arms and the irregular forces of the parties in South Vietnam shall stop all offensive activities against each other and shall strictly abide by the following stipulations:

All acts of force on the ground, in the air, and on the sea shall be prohibited:

All hostile acts, terrorism and reprisals by both sides will be banned.

Article 4

The United States will not continue its military involvement or intervene in the internal affairs of South Vietnam.

Article 5:

Within sixty days of the signing of this Agreement, there will be a total withdrawal from South Vietnam of troops, military advisers, and military personnel, including technical military personnel and military personnel associated with the pacification program, armaments, munitions, and war material of the United States and those of the other foreign countries mentioned in Article 3 (a). Advisers from the above-mentioned countries to all paramilitary organizations and the police force will also be withdrawn within the same period of time.

Article 8

The dismantlement of all military bases in South Vietnam of the United States and of the other foreign countries mentioned in article 3(a) shall be completed within sixty days of the signing of this Agreement.

Article 4

From the enforcement of the cease-fire to the formation of the government provided for in Articles 9(b) and 14 of this Agree-

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ment, the two South Vietnamese parties shall not accept the introduction of troops, military advisers, and military personnel including technical military personnel, armaments, munitions, and war material into South Vietnam.

The two South Vietnamese parties shall be permitted to make periodic replacement of armaments, munitions, and war material which have been destroyed, damaged, worn out or used up after the cease-fire, on the basis of piece-for-piece, of the same characteristics and properties, under the supervision of the Joint Military Commission of the two South Vietnamese parties and of the International Commission of Control and Supervision.

CHAPTER III

The return of captured military personnel and foreign civilians, and captured and detained Vietnamese civilian personnel

Article 8

(a) The return of captured military personnel and foreign civilians of the parties shall be carried out simultaneously with and completed not later than the same day as the troop withdrawal mentioned in Article 5. The parties shall exchange complete lists of the above-mentioned captured military personnel and foreign civilians on the day of the signing of this Agreement.

(b) The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action.

(c) The question of the return of Vietnamese civilian personnel captured and detained in South Vietnam will be resolved by the two South Vietnamese parties on the basis of the principles of Article 21(b) of the Agreement on the Cessation of Hostilities in Vietnam of July 30, 1954. The two South Vietnamese parties will do so in a spirit of national reconciliation and concord, with a view to ending hatred and enmity, in order to ease suffering and to reunite families. The two South Vietnamese parties will do their utmost to resolve this question within ninety days after the cease-fire comes into effect.

CHAPTER IV

The exercise of the South Vietnamese people's right to self-determination

Article 9

The Government of the United States of America and the Government of the Democratic Republic of Vietnam undertake to respect the following principles for the exercise of the South Vietnamese people's right to self-determination:

(a) The South Vietnamese people's right to self-determination is sacred, inalienable, and shall be respected by all countries.

(b) The South Vietnamese people shall decide themselves the political future of South Vietnam through genuinely free and democratic general elections under international supervision.

(c) Foreign countries shall not impose any political tendency or personality on the South Vietnamese people.

Article 10

The two South Vietnamese parties undertake to respect the cease-fire and maintain peace in South Vietnam, settle all matters of contention through negotiations, and avoid all armed conflict.

Article 11

Immediately after the cease-fire, the two South Vietnamese parties will achieve national reconciliation and concord, end hatred and enmity, prohibit all acts of reprisal and discrimination against

individuals or organizations that have collaborated with one side or the other; ensure the democratic liberties of the people: personal freedom, freedom of speech, freedom of press, freedom of meeting, freedom of organization, freedom of political activities, freedom of belief, freedom of movement, freedom of residence, freedom of work, right to property ownership, and right to free enterprise.

Article 12

(a) Immediately after the cease-fire, the two South Vietnamese parties shall hold consultations in a spirit of national reconciliation and concord, mutual respect, and mutual non-discrimination to set up a National Council of National Reconciliation and Concord of three equal segments. The Council shall operate on the principle of unanimity. After the National Council of National Reconciliation and Concord has assumed its functions, the two South Vietnamese parties will consult about the formation of councils at lower levels. The two South Vietnamese parties shall sign an agreement on the internal matters of South Vietnam as soon as possible and do their utmost to accomplish this within ninety days after the cease-fire comes into effect, in keeping with the South Vietnamese people's aspirations for peace, independence and democracy.

(b) The National Council of National Reconciliation and Concord shall have the task of promoting the two South Vietnamese parties' implementation of this Agreement and achievement of national reconciliation and concord and assurance of democratic liberties. The National Council of National Reconciliation and Concord will organize the free and democratic general elections provided for in Article 9 (b) and decide the procedures and modalities of these general elections. The institutions for which the general elections are to be held will be agreed upon through consultations between the two South Vietnamese parties. The National Council of National Reconciliation and Concord will also decide the procedures and modalities of such local elections as the two South Vietnamese parties agree upon.

Article 13

The question of Vietnamese armed forces in South Vietnam shall be settled by the two South Vietnamese parties in a spirit of national reconciliation and concord, equality and mutual respect, without foreign interference, in accordance with the postwar situation. Among the questions to be discussed by the two South Vietnamese parties are steps to reduce their military effectiveness and to demobilize the troops being reduced. The two South Vietnamese parties will accomplish this as soon as possible.

Article 14

South Vietnam will pursue a foreign policy of peace and independence. It will be prepared to establish relations with all countries irrespective of their political and social systems on the basis of mutual respect for independence and sovereignty and accept economic and technical aid from any country with no political conditions attached. The acceptance of the future of South Vietnam in the future shall come under the authority of the government set up after the general elections in South Vietnam provided for in Article 9 (b).

CHAPTER V

The reunification of Vietnam and the relationship between North and South Vietnam

Article 15

The reunification of Vietnam shall be carried out step by step through peaceful means on the basis of discussions and agreements between North and South Vietnam, without coercion or annexation by either party, and without foreign interference. The time for reunification will be agreed upon by North and South Vietnam.

Pending reunification:

(a) The military demarcation line between the two zones at the 17th parallel is only provisional and not a political or territorial boundary, as provided for in paragraph 6 of the Final Declaration of the 1954 Geneva Conference.

(b) North and South Vietnam shall respect the Demilitarized Zone on either side of the Provisional Military Demarcation Line.

(c) North and South Vietnam shall promptly start negotiations with a view to reestablishing normal relations in various fields. Among the questions to be negotiated are the modalities of civilian movement across the Provisional Military Demarcation Line.

(d) North and South Vietnam shall not join any military alliance or military bloc and shall not allow foreign powers to maintain military bases, troops, military advisers, and military personnel on their respective territories, as stipulated in the 1954 Geneva Agreements on Vietnam.

CHAPTER VI

The Joint Military Commissions, the International Commission of Control and Supervision, the International Conference

Article 16

(a) The Parties participating in the Paris Conference on Vietnam shall immediately designate representatives to form a Four-Party Joint Military Commission with the task of ensuring joint action by the parties in implementing the following provisions of this Agreement:

The first paragraph of Article 2, regarding the enforcement of the cease-fire throughout South Vietnam;

Article 3(a), regarding the cease-fire by U.S. forces and those of the other foreign countries referred to in that Article;

Article 3(c), regarding the cease-fire between all parties in South Vietnam;

Article 5, regarding the withdrawal from South Vietnam of U.S. troops and those of the other foreign countries mentioned in Article 3(a);

Article 6, regarding the dismantlement of military bases in South Vietnam of the United States and those of the other foreign countries mentioned in Article 3(a);

Article 8(a), regarding the return of captured military personnel and foreign civilians of the parties;

Article 8(b), regarding the mutual assistance of the parties in getting information about those military personnel and foreign civilians of the parties missing in action.

(b) The Four-Party Joint Military Commission shall operate in accordance with the principle of consultations and unanimity. Disagreements shall be referred to the International Commissions of Control and Supervision.

(c) The Four-Party Joint Military Commission shall begin operating immediately after the signing of this Agreement and end its activities in sixty days after the completion of the withdrawal of U.S. troops and those of the other foreign countries mentioned in Article 3(a) and the completion of the return of captured military personnel and foreign civilians of the parties.

(d) The four parties shall agree immediately on the organization, the working procedure, means of activity, and expenditures of the Four-Party Joint Military Commission.

Article 17

(a) The two South Vietnamese parties shall immediately designate representatives to form a Two-Party Joint Military Commission with the task of ensuring joint action by the two South Vietnamese parties in implementing the following provisions of this Agreement:

The first paragraph of Article 2, regarding

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the enforcement of the cease-fire throughout South Vietnam, when the Four-Party Joint Military Commission has ended its activities; Article 3(b), regarding the cease-fire between the two South Vietnamese parties; Article 3(c), regarding the cease-fire between all parties in South Vietnam, when the Four-Party Joint Military Commission has ended its activities;

Article 7, regarding the prohibition of the introduction of troops into South Vietnam and all other provisions of this article;

Article 8(c), regarding the question of the return of Vietnamese civilian personnel captured and detained in South Vietnam;

Article 13, regarding the reduction of the military effectiveness of the two South Vietnamese parties and the demobilization of the troops being reduced.

(b) Disagreements shall be referred to the International Commission of Control and Supervision.

(c) After the signing of this Agreement, the Two-Party Joint Military Commission shall agree immediately on the measures and organization aimed at enforcing the cease-fire and preserving peace in South Vietnam.

Article 18

(a) After the signing of this Agreement, an International Commission of Control and Supervision shall be established immediately.

(b) Until the International Conference provided for in Article 19 makes definite arrangements, the International Commission of Control and Supervision will report to the four parties on matters concerning the control and supervision of the implementation of the following provisions of this Agreement:

The first paragraph of Article 2, regarding the enforcement of the cease-fire throughout South Vietnam;

Article 3(a), regarding the cease-fire by U.S. forces and those of the other foreign countries referred to in that Article;

Article 3(c), regarding the cease-fire between all the parties in South Vietnam;

Article 5, regarding the withdrawal from South Vietnam of U.S. troops and those of the other foreign countries mentioned in Article 3(a);

Article 6, regarding the dismantlement of military bases in South Vietnam of the United States and those of the other foreign countries mentioned in Article 3(a);

Article 8(a), regarding the return of captured military personnel and foreign civilians of the parties.

The International Commission of Control and Supervision shall form control teams for carrying out its tasks. The four parties shall agree immediately on the location and operation of these teams. The parties will facilitate their operation.

(c) Until the International Conference makes definite arrangements, the International Commission of Control and Supervision will report to the two South Vietnamese parties on matters concerning the control and supervision of the implementation of the following provisions of this Agreement:

The first paragraph of Article 2, regarding the enforcement of the cease-fire throughout South Vietnam, when the Four-Party Joint Military Commission has ended its activities;

Article 3(b), regarding the cease-fire between the two South Vietnamese parties;

Article 3(c), regarding the cease-fire between all parties in South Vietnam, when the Four-Party Joint Military Commission has ended its activities.

Article 7, regarding the prohibition of the introduction of troops into South Vietnam and all other provisions of this article;

Article 8(c), regarding the question of the return of Vietnamese civilian personnel captured and detained in South Vietnam;

Article 9(b), regarding the free and democratic general elections in South Vietnam;

Article 13, regarding the reduction of the military effectiveness of the two South Viet-

namese parties and the demobilization of the troops being reduced.

The International Commission of Control and Supervision shall form control teams for carrying out its tasks. The two South Vietnamese parties shall agree immediately on the location and operation of these teams. The two South Vietnamese parties will facilitate their operation.

(d) The International Commission of Control and Supervision shall be composed of representatives of four countries: Canada, Hungary, Indonesia and Poland. The chairmanship of this Commission will rotate among the members for specific periods to be determined by the Commission.

(e) The International Commission of Control and Supervision shall carry out its tasks in accordance with the principle of respect for the sovereignty of South Vietnam.

(f) The International Commission of Control and Supervision shall operate in accordance with the principle of consultations and unanimity.

(g) The International Commission of Control and Supervision shall begin operating when a cease-fire comes into force in Vietnam. As regards the provisions in Article 18(b) concerning the four parties, the International Commission of Control and Supervision shall end its activities when the Commission's tasks of control and supervision regarding these provisions have been fulfilled. As regards the provisions in Article 18(c) concerning the two South Vietnamese parties, the International Commission of Control and Supervision shall end its activities on the request of the government formed after the general elections in South Vietnam provided for in Article 9(b).

(h) The four parties shall agree immediately on the organization, means of activity, and expenditures of the International Commission of Control and Supervision. The mission of the International Commission of Control and Supervision shall be agreed upon by the International Commission and the International Conference.

Article 19

The parties agree on the convening of an International Conference within thirty days of the signing of this Agreement to acknowledge the signed agreements; to guarantee the ending of the war; the maintenance of peace in Vietnam; the respect of the Vietnamese people's fundamental national rights, and the South Vietnamese people's right to self-determination; and to contribute to and guarantee peace in Indochina.

The United States and the Democratic Republic of Vietnam, on behalf of the parties participating in the Paris Conference on Vietnam, will propose to the following parties that they participate in this International Conference: the People's Republic of China, the Republic of France, the Union of Soviet Socialist Republics, the United Kingdom, the four countries of the International Commission of Control and Supervision, and the Secretary General of the United Nations, together with the parties participating in the Paris Conference on Vietnam.

CHAPTER VII

Regarding Cambodia and Laos

Article 20

(a) The parties participating in the Paris Conference on Vietnam shall strictly respect the 1954 Geneva Agreements on Cambodia and the 1962 Geneva Agreements on Laos, which recognized the Cambodian and the Lao peoples' fundamental national rights, i.e., the independence, sovereignty, unity, and territorial integrity of these countries. The parties shall respect the neutrality of Cambodia and Laos.

The parties participating in the Paris Conference on Vietnam undertake to refrain from using the territory of Cambodia and the territory of Laos to encroach on the sov-

erignty and security of one another and of other countries.

(b) Foreign countries shall put an end to all military activities in Cambodia and Laos, totally withdraw from and refrain from reintroducing into these two countries troops, military advisers and military personnel, armaments, munitions and war material.

(c) The internal affairs of Cambodia and Laos shall be settled by the people of each of these countries without foreign interference.

(d) The problems existing between the Indochinese countries shall be settled by the Indochinese parties on the basis of respect for each other's independence, sovereignty, and territorial integrity, and non-interference in each other's internal affairs.

CHAPTER VIII

The relationship between the United States and the Democratic Republic of Vietnam

Article 21

The United States anticipates that this Agreement will usher in an era of reconciliation with the Democratic Republic of Vietnam as with all the peoples of Indochina. In pursuance of its traditional policy, the United States will contribute to healing the wounds of war and to postwar reconstruction of the Democratic Republic of Vietnam and throughout Indochina.

Article 22

The ending of the war, the restoration of peace in Vietnam, and the strict implementation of this Agreement will create conditions for establishing a new, equal and mutually beneficial relationship between the United States and the Democratic Republic of Vietnam on the basis of respect for each other's independence and sovereignty, and non-interference in each other's internal affairs. At the same time, this will ensure stable peace in Vietnam and contribute to the preservation of lasting peace in Indochina and Southeast Asia.

CHAPTER IX

Other provisions

Article 23

This Agreement shall enter into force upon signature by plenipotentiary representatives of the parties participating in the Paris Conference on Vietnam. All the parties concerned shall strictly implement this Agreement and its Protocols.

Done in Paris this twenty-seventh day of January, One Thousand Nine Hundred and Seventy-Three, in Vietnamese and English. The Vietnamese and English texts are official and equally authentic.

[Separate Numbered Page]

For the Government of the United States of America:

WILLIAM F. ROBERTS,

Secretary of State,

For the Government of the Republic of Vietnam:

THAM VAN LAM,

Minister for Foreign Affairs.

[Separate Numbered Page]

For the Government of the Democratic Republic of Vietnam:

NGUYEN DUU THINH,

Minister for Foreign Affairs.

For the Provisional Revolutionary Government of the Republic of South Vietnam:

NGUYEN TAN BANG,

Minister for Foreign Affairs.

AGREEMENT ON ENDING THE WAR

AND

RESTORING PEACE IN VIETNAM

The Government of the United States of America, with the concurrence of the Government of the Republic of Vietnam,

The Government of the Democratic Republic of Vietnam, with the concurrence of the Provisional Revolutionary Government of the Republic of South Vietnam,

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disagree with this sentiment. Yet at the same time, I think that my distinguished colleagues will realize the importance of our receiving a full accounting of the MIA's. The amendment which the distinguished Senator from Kansas (Mr. Dole) and I are offering today seeks a reasonable compromise among reasonable men. It would simply withhold the effect of the amendment offered by the junior Senator from Missouri until such time as we received a satisfactory accounting of our MIA's. I am sure that no one in this body would want to be responsible for prolonging such an accounting of our MIA's.

Under the Paris agreement, the four parties are supposed to cooperate in such an accounting. The Communists have not cooperated. At the very least, the Communists are supposed to allow the United States to take the necessary steps to arrive at an accounting. They have not given us the simple permission to make our own searches. Yet at the very moment when we are poised to begin such searches, there are some who would tie the hands of the President and remove from him the only sanctions we have to force Hanoi to comply with the agreement in respect to accounting for MIA's. If there are those who favor the Eagleton amendment, let them at least consider whether its effect should be delayed until there is a demonstration of good faith on the part of the Communists that they are willing to live up to article 8 of the agreement which they signed.

Surely we owe this to the wives and families and other loved ones of the American men who went out there to do their duty for our country—men who are now missing, men whose wives and families still live in the agony of uncertainty.

Mr. President, I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, there is not a Senator in this body who does not want the North Vietnamese to provide a full accounting of our missing in action as is required by the Paris agreement. Many would support diplomatic or economic sanctions against North Vietnam; to force that nation to uphold its obligations under the agreement.

But that is not the issue before us today. The issue is whether the combat activities being conducted in Cambodia by the President of the United States are legal or wise.

As Secretary Richardson has said, a vote to defeat section 305 would be a vote to acquiesce in the air operation. But we are now confronted with an amendment which, if adopted and passed into law along with section 305 would constitute the legal authorization of Congress to continue the bombing until the President decides it should stop. This amendment is dynamite in sheep's clothing, and the Senator from Kansas knows it.

My amendment deals only with Cambodia and Laos, nations whose governments have no obligations under the Paris agreement. North Vietnam is obliged to carry out that agreement, but to link the failure of that country to abide by the provisions of the Paris

agreement to a decision to go to war in a nation only incidentally affected by that agreement, would be sheer nonsense. Yet, that is what the Dole amendment is asking us to do—to give our legal sanction to the Cambodian War.

The tactic is clear, of course—obscure the central issue with a totally unrelated matter—a matter of great concern to the Members of this body. But we have come too far to be hoodwinked through the back door. This amendment would not only start a new war in Indochina through the back door, it would, in effect, undercut section 305, it would, in effect, transform it into a declaration of war.

I urge my colleagues, before we take the drastic step the Senator from Kansas is asking us to take, to look at the effort that has been undertaken to date in pursuit of a full accounting of our MIA's.

Before the dissolution of the Four-Party Joint Military Commission on May 28, a Four-Party Joint Team was established as an ongoing adjunct of the original Four Power Commission. This team meets regularly in Saigon and is specifically designated to carry out the portions of the cease-fire agreement on missing in action.

As a result of the continuing meetings between the Four-Party Team, two recent visits took place to North Vietnam for the purpose of identifying and recovering missing in action. On May 11, the team was taken by the North Vietnamese to an empty cemetery where, according to the North Vietnamese, 12 Americans had been buried. One week later, on May 18, the team was taken to a graveyard outside of Hanoi where they inspected 23 gravesites and verified that each contained the remains of Americans previously listed as MIA's.

The Four-Party Team continues to meet in Saigon 2 or 3 times a week and are now discussing methods to repatriate the remains of the American dead. In addition, the team is discussing with the North Vietnamese an inspection schedule whereby the team could travel to known or suspected crash sites in North Vietnam.

According to investigators from the Foreign Relations Committee, military personnel assigned to our Joint Casualty Resolution Center in Thailand have advised that they have no complaints of noncooperation on the part of the North Vietnamese. They indicated that the procedure may be going along slower than we would like; however, there is no indication that our Government is prepared to protest the current level of activity.

Mr. President, what we are asked to do by the Dole amendment, before we have even filed a formal protest with the ICCS, before we even communicate with the North Vietnamese with respect to the recovery of the MIA's, is to declare war in a third nation—Cambodia.

I would like to read from the testimony that is going to be delivered this afternoon by Mr. Frank A. Sieverts, special assistant to the Deputy Secretary of State for Prisoners of War and Missing in Action. This testimony will be delivered—perhaps it is being delivered now—before a subcommittee of the

House Committee on Foreign Affairs. This is what Mr. Sieverts says about the cooperation we are receiving with respect to the MIA's. I read from page 12:

We are in direct contact with officials of the communist side, in Saigon, we are proceeding through the Four-Party Joint Military Team, established under the Viet-Nam Agreement. The Team has already made two trips to North Viet-Nam to visit cemeteries where Americans who died in captivity are buried. Communist officials have also acknowledged the existence of additional graves of Americans who died in aircraft crashes or of other causes. Our aim is to arrange the early repatriation of the remains of as many of these persons as possible.

At the same time, we have made clear our urgent interest in receiving information on the missing. Complete lists of our missing personnel have been provided to the Four-Party Team for this purpose.

In Laos, U.S. officials have been in direct contact with representatives of the Lao Patriotic Front (the Pathet Lao) to press for additional information on Americans missing or captured in Laos. We have told the communist side of our concern at the small number of Americans listed as captured in Laos, in view of past hints that a larger number were held by Pathet Lao forces, and in view of evidence that at least two others had been captured in Laos. The communist side has repeatedly told us and has recently stated publicly that there are no more Americans captured or held in Laos. They have also said that further accounting for the missing must await the formation of a coalition government, as specified in the February 21 Laos cease-fire agreement. Our efforts to convince the communist side to proceed with this accounting without waiting for a new government to be formed have thus far been in vain.

We are carrying out our own efforts to search for information on our missing and dead. Specific responsibility for this has been assigned to the Joint Casualty Resolution Center (JCRC), located in Thailand near the Laos and Viet-Nam borders. The JCRC is manned by American military personnel and functions with the close assistance of our embassies and consulates in the area. We have told the communist side about the JCRC, making clear its peaceful, open, and humanitarian purpose. The JCRC already has carried out a number of searches, so far in South Viet-Nam. We plan to work in harmony with local people wherever Americans may be missing or dead, and we hope to have the cooperation of the communist authorities. Our aim is to find the fullest possible information on each missing man. We recognize this is an enormous undertaking, and one that we cannot succeed in every case, or even in a majority of cases. But we intend to try.

There are no more tragic victims of war than the families of MIA's. These families are destined to continue their life never fully knowing whether their loved one may still be alive in some far corner of the world. The Indochina war is not much different than other wars we have fought in that regard—the tragedy and the sorrow is the same. In World War II the United States had a total of 35,368 missing personnel; 29,151 are now considered dead and 1,784 are still carried in missing status. In the Korean war 5,178 Americans were either missing or captured. A larger percentage of that number were returned by the enemy where they had been held as POW's. But still over 1,000 are listed as missing in action.

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So the unfortunate tragedy of the MIA is not unique to our most recent war experience. In every case, the U.S. Government puts forth a maximum effort to obtain a full accounting of its missing in action. But I submit that never in our history have we made the mistake of entering another war before we have exhausted all diplomatic efforts to obtain that full accounting.

Mr. President, I have received letters from the families of our missing in action. It is difficult to give these people even a little hope. Dr. Kissinger and the Defense Department have expressed strong doubts that any are still alive.

I read again from the testimony Mr. Sieverts is submitting this afternoon:

It should be noted that there is no indication from these debriefings of POW's that any American personnel continue to be held in Indochina. All American prisoners known to any of our returned POW's have either been released or been listed by the communist authorities as having died in captivity. Returnees with whom I have talked, including those who appeared before this Subcommittee May 21, are clear in their belief that no U.S. prisoners continue to be held.

It is a tragic irony that the Defense Department carried no MIA in Cambodia prior to the January 27 cease-fire agreement. Since that agreement, however, two Americans have been lost in bombing operations and are now listed as missing in action. Yet, the Senator from Kansas wants this body to give legal sanction to the combat activity which is adding Americans to the list of MIA's.

No one can return life to those who are dead, but what we can do here today, in our own way, is to let it that no more die and that there are no more missing in action. It is because we should now be well aware of the pain suffered by the families of MIA's that we must reject this amendment.

Mr. SYMINGTON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Missouri has 9 minutes remaining.

Mr. EAGLETON. I yield 8 minutes to the Senator from Missouri.

SOMEONE OF CAMBODIA

Mr. SYMINGTON. Mr. President, in recent days Senators advocating a continuation of the United States bombing of Cambodia have made a series of misstatements of fact in support of their position.

I feel confident, of course, that none of those involved have made these misstatements deliberately. Indeed, they appear to have been based on similar misstatements persistently made by executive branch officials in recent months.

Fortunately, in this instance the Senate does not have to rely solely on information provided by the executive branch in considering the Cambodian question. Members of the staff of the Subcommittee on U.S. Security Agreements and Commitments Abroad of the Senate Foreign Relations Committee, which subcommittee I have the honor to chair, spent the month of April in Indochina and have brought back a report which, after review by the executive branch,

has been made available to the Senate and the public, and which contradicts the basic premises of the administration's argument in support of the Cambodian bombing.

I wish briefly to note some of the principal errors made by the administration and its supporters in this debate.

It has been claimed, for instance, that: We are bombing North Vietnamese troops.

The fact is that the vast majority of our bombing is directed not at the North Vietnamese, but at the troops of the Cambodian faction opposing Lon Nol. In briefings at the Pentagon, at U.S. 7th Air Force Headquarters in Thailand and at the American Embassy in Phnom Penh, our staff was told that the heavy preponderance of forces opposing the Lon Nol forces are Cambodian insurgents.

It has also been claimed that—

The North Vietnamese are currently maintaining some 40,000 troops in Cambodia. Of this total, some 30,000 are support troops, at least 3,500 are targeted against the Cambodian government forces, and some 30 military advisers per battalion are helping the Cambodian insurgent forces.

As is evident even from the quote itself, it is deceptive to speak of "40,000 North Vietnamese troops in Cambodia" when only a small percentage of these troops are targeted against the forces of the Phnom Penh regime. Furthermore, the number of North Vietnamese engaged against Lon Nol's forces, according to figures given the subcommittee staff as an agreed U.S. intelligence community estimate in early April, was not "at least 3,500" but probably "about 2,000 or at most 3,000." Moreover, the subcommittee staff was told that at most there were three or four advisers attached to some—but not all—insurgent battalions. Cambodian insurgent ralliers with whom our staff was asked to meet by the Cambodian Government said there were no North Vietnamese attached to their former battalions.

One of the most serious misrepresentations is that which involves the alleged North Vietnamese violation of the Vietnamese cease-fire agreement as regards Cambodia. The Administration's supporters have said, for example—

U.S. air operations were a precise response to the North Vietnamese violation of Article 20 (of the Vietnam cease-fire agreement).

The fact is that there has been no North Vietnamese violation of article 20. According to the State Department, the terms of article 20 are not yet operative and do not require withdrawal until or unless there is a cease-fire agreement in Cambodia. Secretary Rogers himself recently acknowledged in a hearing before the Foreign Relations Committee that the North Vietnamese are not in violation of article 20.

Another erroneous assertion is that which states that—

When the (Vietnam) cease-fire was signed, the Cambodian Government declared a cease-fire.

In fact, following the Vietnam cease-fire, Lon Nol announced that his troops would suspend offensive operations so that the North Vietnamese could with-

draw and Lon Nol warned that if they did not withdraw, his troops would take action against them. This was not a cease-fire offer; it was an ultimatum. Furthermore, Lon Nol's troops did not all suspend operations whereas for several days most of the Cambodian insurgents apparently did.

It has also been said that—

(U.S.) air strikes are meticulously targeted and controlled to avoid civilian casualties.

Our Air Force, while it undoubtedly does its best to avoid civilian casualties, is unable to do so because our authorities do not have available to them the type of detailed information required to avoid civilian casualties and because the airplanes being used and the manner in which they are employed make it impossible to avoid civilian casualties.

Furthermore, our staff has reported that the procedural safeguards employed in Cambodia are nowhere near as tight as those previously used in Laos where thousands of civilian casualties resulted from our devastation of the Plain of Jars. In fact, local Cambodian commanders are reported to call for air strikes without regard to possible civilian presence and an assistant air attaché in the American Embassy, far from the scene of the fighting, authorizes strikes on behalf of our Ambassador.

Mr. President, these are the facts that these men went out and obtained shortly before this debate started. There are many other misstatements of fact which I could cite that have been made on the floor in an effort to justify this incredible bombing. But those which I have noted should be sufficient to indicate that once again the American people have been given a distorted view of the war in Indochina. What these misstatements amount to is an erroneous picture of who we are fighting, where we are bombing, and a misrepresentation of the basis for our bombing.

As mentioned previously, the legal rationale for the President's authority to continue the bombing as presented by the executive branch is equally invalid.

Mr. DOLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Kansas has 9 minutes remaining and the Senator from Missouri has 12 minutes remaining.

Mr. DOLE. Mr. President, I wish to use this time to make as a part of the Record a statement delivered today by Dr. Roger E. Shields, Assistant to the Assistant Secretary of Defense—International Security Affairs—before the Subcommittee on National Security Policy and Scientific Development, of the Foreign Affairs Committee of the House. I would like to make one comment with reference to the paragraph on page 8 where Dr. Shields speaks of the efforts to verify the status of our MIA's and discusses those responsible for the verifications. He states:

On two occasions, May 11 and 18, the team, along with representatives of the joint casualty resolution center, journeyed to North Vietnam where burial sites, allegedly of American servicemen, were seen. Identification and recovery of remains were not undertaken on these occasions because of

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lack of permission from the North Vietnamese.

Mr. President, I ask unanimous consent to have printed in the Record the entire statement made by Dr. Roger E. Shields, Assistant to the Assistant Secretary of Defense, to which I have just referred.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT OF DR. ROGER E. SHIELDS
Mr. Chairman, members of the committee: It is a privilege for me to represent the Department of Defense here today. I particularly welcome the opportunity to talk with you because, unlike the last time we met, part of a great effort in behalf of our missing and captured men and their families has reached a heartwarming and satisfying conclusion. I am referring specifically to the return from captivity of 568 American military personnel and 25 U.S. civilians. Nine foreign nationals were also released. I would like to insert in the record at this point a statistical summary of these 591 returned Americans.

As you know, these Americans were taken prisoner while serving in Southeast Asia. Their period of captivity ranged from only a few months to as long as ten years. During this time they faced deprivations and made sacrifices that very few men ever encounter. Here at home the families of our missing and captured men and their families have waited for some word about the condition or status of their men. These families were joined by countless Americans and virtually every government agency in a great national endeavor to obtain a full and accurate accounting of all the men, and better treatment and the ultimate release of those held captive. As I have indicated, only part of our work is finished. About 1300 men still remain unaccounted for and their families continue the seemingly endless vigil in their behalf. I will discuss our current efforts to resolve the perplexing issue of those who did not return in just a moment.

During the months and years preceding the long-awaited return of our men, a major part of our work involved detailed planning for their repatriation. Presentations before this and other committees usually centered around the anticipated problems of reception, processing, rehabilitation, and readjustment of the returned prisoners of war. Much of this planning was done in the face of great uncertainty. For example, we did not know how many men would be released, what condition they would be in, or even where they would be returned to us. These uncertainties necessitated planning for a wide range of possibilities with contingency plans ready at our military hospitals in Europe as well as in the Pacific Theater. I can say with considerable satisfaction that our homecoming plans were well-founded. From the moment the first 116 men were released in North Vietnam on February 12, 1973, until the last one was released by the PRC in South Vietnam on April 1, 1973, the return of our men was handled with efficiency, thoroughness, and sensitivity. The initial reception, aeromedical evacuation, enroute medical treatment, and the ultimate family reunions and processing in the United States are a tribute to the outstanding cooperation and mutual support demonstrated by the four military services. We in the Department of Defense received unparalleled cooperation and assistance from agencies in both the Federal and State Governments, especially from the Department of State, the Congress of the United States, and our President.

Our returned men have now completed the homecoming processing events. Most of them are on convalescent leave and are busy get-

ting acquainted with their families and their country once again. Many have already received future assignments and are preparing to resume active military careers. Some are undergoing scheduled treatment to correct physical deficiencies noted during the detailed medical evaluation received overseas and here at home. All of the men have been brought up to date in personnel and financial matters and have been debriefed on their experiences in captivity. The 31 military installations that accomplished the processing of the men while they are free on convalescent leave and until they actively resume military or civilian professions. All agencies in the Department of Defense stand ready to help the men and their families during this transition period.

In the future, we are prepared to provide whatever assistance is required for as long as may be necessary. For example, the Department of Defense has implemented a program through which returned men who leave the military prior to obtaining retirement eligibility will, along with their families, be authorized to obtain health care in any military medical facility for a period of five years from the date of separation. Near the end of the five-year period, each situation will be reevaluated. This program will help guarantee that each returned prisoner of war will receive immediate and long-term medical attention from military medical specialists who are familiar with the Southeast Asia captivity environment and who have access to complete records and documentation in the military medical archives. For those who elect to leave the military, we are also prepared to provide a full range of job counseling and assistance in cooperation with private industry. For those who remain on active duty, the Services have developed special retraining and familiarization programs. One program, for example, involves two weeks of academic updating on military, national, and international matters.

Much of the credit for the success of homecoming must be given to the men themselves and to their families. They handled the repatriation events and the reunion with families and countrymen with great dignity and patriotism. They have been an inspiration to this country. Based on the accounts of their captivity experiences, I would say that their ability to endure so long under such harsh conditions can be largely attributed to their courage and determination and to their faith in God and country.

While we are grateful for the return of these men, our joy and sense of accomplishment are tempered by the fact that others listed by our government as missing and captured did not return. A full accounting for these men is not yet available to us. Some fear that in the wake of homecoming, we will forget those who are unaccounted for and ignore the plight of their families. I want to assure you that this will not happen. The Department of Defense will continue to seek the fullest possible accounting for these men and to provide their families with every possible assistance just as we have in the past. In addition, we will seek to recover the remains of the missing who have died and those who are already listed as killed in action but whose remains have not been recovered.

Before discussing the preparations that we have made and the actions we are now taking to achieve our objectives, I would like to place the problem in perspective by inserting in the Record a statistical breakdown of some 1900 men who remain unaccounted for in Southeast Asia. In addition to this number, there are about 1100 others who have been declared dead by the Services but whose remains have not been recovered. As the members of the committee know, every possible avenue was explored prior to

the release of our men to gain accurate information about those listed as missing or captured. Even while we planned our repatriation activities, we simultaneously prepared for the time when direct action to determine our missing would be possible. Through negotiation or systematic search, to date, extensive data has been gathered and stored in automated data handling systems for ease in correlation and analysis. This data includes extensive descriptive information on the individuals concerned, such as carefully plotted locations where they were last seen, and eyewitness accounts from our own forces as well as all accessible indigenous residents who were known or missing. One computerized program that is particularly unique contains information taken from medical records concerning all individuals whose physical characteristics, which would, with the aid of advanced technology, help facilitate the prompt and accurate identification of any remains that are recovered.

In order to update members of Congress on efforts being made to resolve the serious problem of accounting for the missing, the Department of Defense submitted a paper to the House on February 2, 1973. Before proceeding further, I would like to submit for the record this paper and its memorandum of transmittal.

There are now two primary agencies upon which we are relying heavily to help resolve the status of our missing: The Four-Party Joint Military Team (FPJMT) and the Joint Casualty Resolution Center (JCRC). In accordance with the agreements signed in Paris, the Four-Party Joint Military Team was established after termination of the Four-Party Joint Military Commission expressly for the purpose of arranging for the recovery of remains and exchanging information to help clarify the status of the missing. The Joint Casualty Resolution Center was activated in January of this year in South Vietnam. In February, with approval of the Royal Thai Government, the Joint Nakhon Phanom Royal Thai Air Force Base in northeastern Thailand. Within the limits imposed upon it, the Joint Casualty Resolution Center supervises and conducts search operations designed to resolve the fate of the missing and recover remains wherever possible. The entire operation is peaceful, open, and humanitarian in nature. In its current location, the Joint Casualty Resolution Center is centrally located with regard to all the areas in which American personnel were lost.

The mission of our delegation to the Four-Party Joint Military Team has three primary aspects: (1) To obtain information from the other side about U.S. military and civilian personnel who are missing in action; (2) to obtain information about the location of the graves of those persons who died in captivity or were killed in action; and (3) to negotiate entry rights for U.S. search and inspection operations into areas where there are believed to be unrecovered remains or where those still unaccounted for were last believed to be located.

The chief of our delegation, an Army colonel, is responsible through the defense attaché office in Saigon and the U.S. support activity group in Thailand to the U.S. commander in chief, Pacific, Admiral Noel Gayler. Our delegation is also responsive to the policy guidance and instructions of the ambassador in Saigon. Since the first meeting of the team on April 4, over twenty sessions and 18, the team, along with representatives of the joint casualty resolution center, journeyed to North Vietnam where burial sites, allegedly of American servicemen, were seen. Identification and recovery of remains were not undertaken on these occasions because of lack of permission from the North Vietnamese. We are currently trying to arrange

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for the exhumation and repatriation of these remains and of any other American dead known to the other side.

Another issue that is of major concern to us is the acquisition of entry rights for our search teams to areas throughout Southeast Asia where our men are missing. The success of the joint casualty resolution center's mission depends heavily on the operating authorities and the cooperation of the countries involved. We believe that our search teams should be given access to all locations where our men are believed to be missing. This is especially true for Laos where only nine Americans were listed for repatriation while over 300 of our men still remain unaccounted for. Our teams possess the great expertise required for this complex and dangerous mission, as well as the motivation to do a complete and thorough job. Nevertheless, we invite and welcome host country participation in the activities of our field teams. Indeed, we feel that host country participation is essential to the safety of our own teams and to the success of the mission.

To give you a better idea of the task facing the joint casualty resolution center and our negotiators, let me turn back to some statistics that I mentioned earlier. As you recall, I said that there are some 1300 who are unaccounted for in Southeast Asia and some 1100 others who have been declared officially dead by the Services but whose remains have not been recovered. More than 1,900 of the composite 2,400 in these two categories are the result of air crashes. There are more than 1,000 such crash sites involving over 50 different types and models of aircraft. The number varies from nearly 400 in North Vietnam to less than 20 in Cambodia. These crash sites are scattered throughout the rugged terrain in Southeast Asia—on mountains and in dense uninhabited jungles. Approximately 150 of the crashes were at sea. Some 90 percent of the sites are in militarily contested areas or in areas controlled by the other side.

So far, some five crash sites in non-contested areas of South Vietnam have been inspected. The inspection of these sites has allowed refinement of procedures and techniques in preparation for the more complex and hazardous operations to come. Pieces of aircraft wreckage and other materials have been located and are being analyzed for identification purposes. On one of the first search operations, a South Vietnamese soldier was killed by an unexploded booby trap while participating with an advance element that had been sent to clear the area for the main search party. This is a clear indication that the overall effort will be both difficult and dangerous. For the record, I would like to submit a fact sheet on the joint casualty resolution center that explains in greater detail the unit's organizational structure and methods of operation.

I would like to address now the question of the degree of success that we might ultimately achieve and how long this might take. Prior to the repatriation of our prisoners there were high expectations that large numbers of missing in action cases could be resolved from debriefings of the returned men. Unfortunately, this has not been the case. The debriefings have been performed in a professional manner with sensitivity, and the data carefully analyzed and stored for future reference. Nevertheless, it appears that less than 100 status changes will be made on the basis of this information. We are hopeful that a significant number of additional status changes will result from negotiated arrangements for the exchange of information and the return of remains from locations throughout Indochina. How quickly we will achieve results from these efforts I cannot say. The four-party joint military team has made some progress in this area, and I am hopeful that our patience and persistence will be rewarded by ultimate success.

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Even after all information has been exchanged and all known remains exhumed and repatriated, there will undoubtedly be cases which yet remain to be resolved. Take as an example the case of a missing aircraft which crashed in the sea or uninhabited jungle. It is likely neither side in the recent conflict would know the whereabouts of the wreckage or the fate of the crew. In other cases, even though the locations were once known, it is possible that both wreckage and grave sites may have succumbed to the ravages of time and the havoc of war. It is abundantly clear that the tasks of determining how some of our missing died and the recovery of remains could be prolonged if not impossible.

As for those who are thought to have been captured alive but who have not been returned, let me say that this is perhaps the most agonizing and frustrating issue of all. These are the cases of men who were seen on the ground or whose pictures were released subsequent to capture but who, for one reason or another, have not returned and for whom the other side has yet to provide a satisfactory explanation. We do not consider the lists received so far to be a complete and accurate accounting for our men. We do have, though, an agreement which provides for all actions necessary to account as completely as possible for all who have not returned or are otherwise unaccounted for. We believe that implementation of this agreement will provide the speediest and most satisfactory answers to our questions.

In summary, we are working now to finalise arrangements which will provide for the speedy return of remains of our known dead from locations throughout Southeast Asia, and for the acquisition of clarifying information on any others. On the other hand, the task of inspecting crash sites or locations where the missing were last seen and of finding, exhuming, and identifying remains may be difficult and prolonged, at least over several years, especially if operating limitations remain an obstacle. Some crash sites and graves may never be found.

As for status changes, I want to emphasize that they are not unilaterally tied to the inspection of combat sites or to the recovery of remains. We have made changes in coverage or remains. We have made changes in status from missing in action or prisoner of war to killed in action throughout the recent conflict. Since March, the Services have made about 60 more status changes to killed in action, and we can expect that more will be made on a continuing basis in the future.

The recording and changing of status of the missing are governed by sections 551-558, title 37, United States Code. Under public law, the service secretaries are given responsibility for status changes. To assist him, each secretary calls upon professionals within his organization who conduct an exhaustive study, based on all available information of each individual case. Their task is a painful one requiring countless hours of deliberation and calling ultimately for difficult decisions. The subject of status determinations is not a new one for the Services. Those involved in this often unhappy part of the prisoner of war/missing in action issue are experienced and skilled and expert in upholding the public law and at the same time protecting, to the best of their ability, the ultimate interests of the missing men and their families.

In making status determinations, two possibilities exist besides the option of retaining the individual in a missing status. In those cases where information is received which conclusively establishes that the member is dead, then a report of death will be issued. A finding of death, commonly known as a "presumptive finding" is made when circumstances are such that the missing individual cannot reasonably be presumed to be living. An individual who was

lost over water and who was not among those released or acknowledged by the other side in any way is a good example of a potential "presumptive finding."

The problems surrounding the question of those "not yet accounted for" are difficult in every respect. We are prepared to do the job through the machinery that we now have in motion, but we are convinced that the issue will not be resolved quickly or easily. I want to assure you again that we will uphold our responsibilities and our obligations in this matter. We will provide the families of our missing men every possible assistance. And for those who must face a final negative determination, we are prepared to offer complete counseling and guidance to help ease the resulting burdens, as well as heartfelt sympathy.

Mr. Chairman, members of this subcommittee, may I again express the appreciation of the Department of Defense for your kind invitation to appear here today and for your steadfast work in behalf of our men and their families. The opportunity to discuss the current status of our returned men and the issue of our missing is truly welcomed.

REPORTED FOR RELEASE AND RETURNED TO U.S. CONTROL—
FEB. 12, —APR. 1, 1973

Country	USA	USN	USAF	USMC	Sea	Total
North Vietnam	0	135	312	8	1	457
South Vietnam	77	1	6	17	21	122
Laos	0	1	1	0	2	4
Cambodia	0	1	1	0	1	3
Total	77	138	325	25	25	566

1. Detainees in PRC who were released during the referenced time period and processed through the homecoming system.
2. Total does not include third country nationals.

RELEASE INCREMENTS AND DATES

Place	Date— 1973	Military	Civilians
North Vietnam (DRV)	Feb. 12	116	0
South Vietnam (PRG)	Mar. 4	19	0
North Vietnam (DRV)	Mar. 18	20	0
North Vietnam (DRV)	Mar. 4	106	0
North Vietnam (PRG)	Mar. 5	27	0
China (PRC)	Mar. 12	0	1
China (PRC)	Mar. 14	107	0
North Vietnam (PRG)	Mar. 15	2	0
North Vietnam (PRG)	Mar. 16	27	0
North Vietnam (PRG)	Mar. 17	22	0
North Vietnam (PRG)	Mar. 18	7	0
North Vietnam (PRG)	Mar. 25	40	0
South Vietnam (DRV)	Apr. 1	1	0
South Vietnam (PRG)	Apr. 1	1	0
Total		566	25

PERSONNEL UNACCOUNTED FOR IN SOUTHEAST ASIA
(AS OF MAY 26, 1973)

Country	Army	Navy	USMC	USAF	Total
North Vietnam	3	132	25	322	463
South Vietnam	329	7	14	38	408
Laos	16	13	14	253	306
Total	348	151	100	676	1,275

1. Includes five missing as a result of two aircraft losses in the vicinity of Hanoi (one killed while in transit to the Tonkin Gulf).
2. Includes 20 missing in Cambodia as a result of U.S. air losses and operations in enemy sanctuary areas along SVN/Cambodia border.

OFFICE OF THE SECRETARY OF
DEFENSE
Washington, D.C., February 2, 1973.MEMORANDUM FOR SENATORS AND MEMBERS OF
THE HOUSE OF REPRESENTATIVES

I have prepared the attached information to insure that you are informed concerning the very important and serious problem of

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accounting for our servicemen who are missing in action in Southeast Asia.

I want to assure you personally that we in the Department of Defense will meticulously explore all avenues and exhaust all clues in our quest to account for each individual lost in Southeast Asia. Also, I want to reaffirm that we consider each of our missing equally as important as our prisoners who are returning.

Your interest and support in our endeavor is appreciated.

Sincerely,
ROGER E. SUTELAND,
Assistant for PW/MIA Matters.

OFFICE OF THE SECRETARY OF
DEFENSE
Washington, D.C., February 2, 1973.

ACCOUNTING FOR MILITARY PERSONNEL WHO
ARE LOST OR MISSING IN ACTION

The purpose of this memorandum is to provide a description of the efforts being made to acquire as full an accounting of our missing in action personnel as possible.

The United States Government will make every possible effort to acquire an accounting for our servicemen missing in action in Southeast Asia.

In this regard, the Agreement which was signed in Paris on January 27, 1973, provides in Article 8 that:

"(b) The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action."

In addition, the Protocol to the Agreement "Concerning the Return of Captured, Military Personnel and Foreign Civilians and Captured and Detained Vietnamese Civilian Personnel" states in Article 10, "With regard to Dead and Missing Persons" that:

"(a) The Four-Party Joint Military Commission shall ensure joint action by the parties in implementing Article 8(b) of the Agreement. When the Four-Party Joint Military Commission has ended its activities, a Four-Party Joint Military team shall be maintained to carry on this task. Disagreements will be referred to the International Commission on Control and Supervision (Article 17 of the Agreement)."

It is emphasized that the U.S. Government will do everything in its power to insure that all parties adhere to the true sense of the Agreement. To this end, Major General Gilbert H. Woodward, United States Army, has been appointed as the United States Representative on the Four-Party Joint Military Commission which will have representation from the United States, South Vietnam, North Vietnam and the Viet Cong. General Woodward has had extensive experience in negotiations of this type as the Senior Member, United Nations Command, Military Armistice Commission, United Nations Command/United States Forces Korea during the period leading up to and at the time of the U.S. POWs' release. The task of the Four-Party Joint Military Commission will be to implement appropriate provisions of the Agreement, including Article 8 quoted above. As the U.S. Representative, General Woodward is responsible for obtaining from other members of the Commission all MIA information held by them, and will coordinate with them the investigations by U.S. teams of incidents surrounding the loss of each of our MIA personnel.

The United States Joint Casualty Resolution Center (JCRC) has been established at Makhon Phnom (KAMP), Thailand and is assigned the mission of resolving the status of U.S. missing personnel. Personnel from the JCRC will locate and investigate crash sites or grave sites throughout Southeast

Asia as arranged through the Four-Party Joint Military Commission. The organization of the JCRC will provide the expertise for these investigations, utilizing air search and ground search teams and a central identification laboratory with a pool of specialists to inspect, locate, crash and grave sites and recover remains.

It is expected that endeavors in remote areas will normally include air and ground searches for crash sites. U.S.-led teams in conjunction with an air search will thoroughly investigate assigned areas of operation for suspected crash and grave sites. If a crash or grave site is located, personnel (graves registration specialists) and crash site investigators will be utilized for a detailed on-scene investigation.

In the more inhabited areas, personal contact with the local people following extensive information programs and coordination will be a primary technique. Grave registration specialists with interpreters, exploiting information gained from all sources and with authority to grant suitable rewards for useful information will conduct the major efforts in those areas where the location of crash or grave sites is more likely to be known and reasonably accessible.

Certain areas require that highly qualified U.S. personnel lead the ground searches because many are in highly remote areas or in the vicinity of roads or trails which are heavily booby trapped and endangered by unexploded ordnance. It is anticipated that recovery detachment teams will include indigenous personnel recruited, trained, and utilized in each country of interest with the cooperation of the host government.

While the Department of Defense will strive to accomplish this massive task of accounting for the missing military personnel in the shortest possible time, it must be realized that it will not be done quickly or easily. For example, in the case of a missing aircraft which crashed in the sea or uninhabited jungle, it is likely neither side in the recent conflict would know the whereabouts of the crash.

The Secretary of Defense and all Defense Department personnel realize and accept the obligation to do their best in performing this important task. This we owe to the families of the missing in action personnel. We intend to fulfill that obligation.

FACT SHEET: UNITED STATES JOINT CASUALTY RESOLUTION CENTER

The Joint Casualty Resolution Center (JCRC), commanded by Army Brigadier General Robert Kingston, is a joint task force established by and under the command of the Commander in Chief Pacific. The unit is under the operational control of the Commander, United States Support Activities Group (USSAG). The Joint Casualty Resolution Center operates under Joint Chiefs of Staff approved mission and joint table of distribution.

The Joint Casualty Resolution Center is an outgrowth of United States Government efforts to identify, document, and maintain records of known and suspected missing in action and prisoners of war. These records were initially maintained by the Joint Personnel Recovery Center (JPRC), Saigon beginning in 1964. When the JCRC was established in Saigon on 23 January 1973, the records of the JPRC were turned over to the new organization.

The mission of the JCRC is to assist in resolving the status of those U.S. personnel missing in action (MIA) and those personnel declared dead whose bodies were not recovered (DEAD), through the provision of information/coordination and/or conduct of operations to locate and investigate crash and grave sites and recover and identify remains throughout Southeast Asia.

In planning for our field operations, we use the following assumptions:

- All parties concerned will meet their

obligations with respect to MIA's and dead assumed under the Vietnam and Lao agreements and will mutually assist in the resolution of such cases.

b. Conditions for coordination with personnel in countries concerned will be provided in accordance with terms of the ceasefire agreements.

c. Coordination of in-country activities in Laos and Cambodia will be accomplished through CINCPAC senior military representatives or designated American Embassy officers.

d. Coordination of in-country activities within North and South Vietnam will be accomplished through negotiations within the Four-Party Joint Military Team.

e. Access to all pertinent areas of Southeast Asia will be sought to allow JCRC teams to conduct casualty resolution operations.

f. In Saigon, an officer assigned to the Office of the Defense Attache, American Embassy has been designated to act as a channel for direct communications between JCRC Headquarters and the U.S. Delegation to the FPJMT.

The JCRC is organized under a dual deputy system: The Deputy Commander for Staff Operations is responsible for the staff planning and coordination; The Deputy Commander for the Field Operations supervises the field units.

Organizationally, the JCRC staff accomplishes the normal staff functions. Additional comments need to be made on three of the staff elements.

The Public Affairs Officer on the staff provides all available information on JCRC activities to the MACV JAF in Bangkok. A JCRC officer is assigned to that office, where he serves as a casualty resolution point of contact and is in constant contact with the JCRC on all casualty resolution matters.

The Casualty Data Division assembles, correlates, and analyzes information on personnel who are missing in the vicinity of crash and burial sites. The function of this division includes data analysis, automated data processing, photo interpretation of aerial photos of crash sites, crash/grave site identification of areas in which JCRC teams will operate, and the maintaining of casualty records or dossiers on those personnel who have been in a missing in action status at one time or another during the conflict.

The Operations Division directs activities in the areas of operations, plans and communications. It also has a Public Communications Branch which provides staff assistance in the development of public information programs in an effort to obtain additional information concerning crash and burial sites.

The major subordinate elements involved in field operations are two control teams, one oriented toward operations in Vietnam and one toward Laos and Cambodia. These control teams provide command and control of casualty resolution field teams, each comprised of five men, and will have operational command of all special augmentation personnel needed to accomplish the mission. Each control team has the capability of launching, supporting, and extracting the field teams and provides for requisite air, communications, and logistics support.

The field teams which will search for crash or grave sites consist of an officer, a radio operator, a medic, an interviewer, and a general duty assistant to the officer in charge, who are all Special Forces Troops.

Special Forces personnel will be used because they are trained to operate harmoniously with indigenous peoples, are familiar with jungle terrain and survival techniques, and are available for this humanitarian effort with minimum additional training. The field teams will be augmented, as required, by Air Force air crash investigators, ordnance demolition technicians provided to disarm unexploded ordnance and booby traps near

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crash sites, and by indigenous personnel who will assist in the search and on-site operations. The JCRC has 11 organic field teams, with an augmentation capability of 10 more teams from the 1st Special Forces Group on Okinawa and 16 teams from U.S. Special Forces assets in Thailand.

The Central Identification Laboratory, Thailand (CIL), located at Samae San, between U-tapao and Sattahip in Southeastern Thailand, about 80 miles from Bangkok, is under the operational command of the Joint Casualty Resolution Center. The CIL is organized into an identification laboratory and eight five-man recovery teams which will accompany the casualty resolution field teams.

The field teams will be deployed in various ways. They can be utilized as separate entities in the search operations for selected locations, or they can be deployed in a cluster arrangement. This concept visualizes a number of concurrent, and consecutive, crash/grave site operations located in one general area. This area would be in the vicinity of a forward operating base which ideally would be adjacent to an air strip that could accommodate arrival, resupply, and departure aircraft. The cluster concept provides a single area to concentrate on, allows for maximum advantage to be taken of predicted climate and weather cycles, maximizes the use of helicopters by short but frequent missions to support several teams in one area, enhances the command, control, and communications support of a number of field teams from the central operating base, facilitates logistics and reduces the insertion problem of the special augmentation personnel (Explosive Ordnance Disposal (EOD), crash investigators, documentary photographers, and CIL recovery teams).

A review of the steps that would be involved in the recovery process follows. First, the Casualty Resolution Staff develops selected areas for search and investigation based on known crash and grave sites. The detailed planning and coordination effort using all available information culminates in an aerial search of the area, if authorized. This combined research will be followed by insertion of the forward operating base and later the field teams and special augmentation personnel. A detailed search and inspection will follow. The results of these missions will be carefully documented. Upon completion of the search and investigation process, the teams and forward operating base will be extracted. Remains that have been located will be down to the CIL for identification.

After analysis and recording has been completed, a detailed report will be forwarded to the services to assist in final determination on status of the personnel. Identified remains will be returned to the United States for burial as desired by next of kin.

Mr. DOLE. Mr. President, I would hope that the North Vietnamese would carry out the agreement signed on January 27 with respect to the MIA's, even though they are not carrying out the agreement with reference to military operations in Cambodia.

But I would suggest, as I said before, that I am not attempting to restrict, in effect, the Eagleton amendment in regard to strictly military considerations. The amendment offered by me and by the Senator from North Carolina states:

"Provided, however, That these restrictions shall be of no force or effect if the President finds and forthwith so reports to the Congress that the Government of North Vietnam is not making an accounting to the best of its ability of all missing in action personnel of the United States in Southeast Asia, or is otherwise not complying with the provisions of article 8 of the agreement signed in Paris on January 27, 1973, and

article 10 of the protocol to the agreement 'Concerning the Return of Captured Military Personnel and Foreign Civilians and Captured and Detained Vietnamese Civilian Personnel'."

That is all we suggest by this amendment. That is all we suggested, I might add, in the past 2, 3, or 4 years, with reference to POW's. We had about the same arguments for and the same arguments against. No one questions the motives or patriotism of those who had a different view, but I stand here as one who has worked with families of MIA's and POW's. This is the least we can do.

Yes, we can say the North Vietnamese are going to permit us to do this and that, but what assurance do we have? What are the diplomatic sanctions referred to by the Senator from Missouri that we would impose?

I do not want the bombing of Cambodia to continue, either, but I do not want to take away from the President of the United States whether it is the present President or some other President—that leverage if the North Vietnamese turn their backs and say, "There will be no further investigation with reference to MIA's."

Having talked with some of the wives and some of the families of MIA's since January 27th of this year, I think it is fair to say that the great majority of these people, those directly involved, want to know the status of their sons or husbands. Are they dead or alive?

There was once a great hope that once the POW's came back and were debriefed, the status of many MIA's could be determined or changed, but, as I understand it, only 100 changes were made from "missing in action" to "killed in action."

I happen to believe that we owe the families of these Americans—of course they are not many; there are only 1,300—a quick accounting and a quick verification, so their status will be known.

I really cannot see that it does any great damage to the so-called Eagleton amendment to provide the President this leverage. First, the President must make a finding. Then he must make a report. And then, and only then, could he avoid the restrictions of the Eagleton amendment.

The POW's are home now, and the POW's, as I said, have been welcomed, and we all rejoice in their homecoming. We all are concerned about those who were killed in Southeast Asia, those who remain, and those who are hospitalized. And, yes, we are concerned about the MIA's, who have no voice at all, unless it comes from the Congress.

I am under no illusion. I do not expect this amendment to prevail. But I would hope those who read the Record and those who sit down next year or 20 years from now to read the Record, in the event the North Vietnamese do not carry out the agreement, will know there were those of us in the Senate who stood and let our views be known.

There has been reference to where the bombs are going in Southwest Asia. I would like to read from a staff report prepared for the use of the Subcommittee on U.S. Security Agreements and Commitments Abroad of the Committee on

Foreign Relations, entitled "U.S. Air Operations in Cambodia: April 1973."

On page 1, subparagraph (b) reads: "During the last two weeks in March, the U.S. Air Force had down a daily average of 88 B-52 sorties, 30 F-4's sorties, 11 gunship sorties and 140 other tactical air sorties, more than two times the sortie rate before January 29."

In subparagraph (c), it states: "(c) Only 20 percent of the U.S. air strikes being down were in support of Cambodian forces while 80 percent were directed at the interdiction of North Vietnamese lines of communication into South Vietnam."

Mr. President, I wish to reserve time for my colleague from North Carolina, but I want to conclude my statement by reading from a letter we sent to every Member of this body.

First, I ask unanimous consent that the entire letter be inserted in the Record, at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. SENATE,
Washington, D.C., May 31, 1973.

DEAR COLLEAGUE: Today, more than four months since the Paris Peace Agreement on Vietnam was signed, some 1,300 Americans are still missing in Southeast Asia. In spite of specific provisions in Article 8 of the Agreement and its protocols for verification and information on missing men, the North Vietnamese have failed to allow inspection operations to be undertaken or to provide any information concerning the status or fate of these men.

We believe that the Senate must go on record for a clear accounting of all MIA's. We must have a full, complete, and detailed resolution of the status of each man insofar as possible. Every means of securing compliance in this respect must be available to the President. Yet the Eagleton Amendment to H.R. 7447, the Supplemental Appropriations bill, would severely limit the President's efforts to secure compliance.

Therefore, today, we intend to offer an amendment to suspend the restrictions of the Eagleton Amendment if the President finds and so reports to Congress that North Vietnam is not making an accounting as required under the Paris Agreement. Congress needs to know if North Vietnam is not living up to the Paris Agreement; our amendment would encourage the President to keep Congress informed in this respect. At the same time, it would give the President the means to continue whatever pressure is necessary to resolve the status of the MIA's.

If you would care to join us as a cosponsor, please contact us on the floor, or call John Smith (ext. 6321) or Jim Lucier (ext. 6342).

Sincerely,
BOB DOLE,
U.S. SENATE,
JAMES HILLMAN,
U.S. SENATE.

Mr. DOLE. Mr. President, let me read a part of that letter:

We believe that the Senate must go on record for a clear accounting of all MIA's. We must have a full, complete, and detailed resolution of the status of each man insofar as possible. Every means of securing compliance in this respect must be available to the President. Yet the Eagleton Amendment to H.R. 7447, the Supplemental Appropriations bill, would severely limit the President's efforts to secure compliance.

Mr. President, that is all we wish to do by offering this amendment. We wish to make certain that we preserve the President's right, the Commander in

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Chief's right, to make certain that those who are missing in action are properly accounted for.

The PRESIDING OFFICER. All of the Senator's time has expired.

Mr. EAGLETON. Mr. President, how much time remains to me?

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. EAGLETON. I yield 6 minutes to the Senator from Montana.

Mr. MANSFIELD. Mr. President, if the amendment offered by the distinguished Senator from Kansas (Mr. Dole) and the distinguished Senator from North Carolina (Mr. Helms) is adopted, we can kiss the Eagleton-Brooke-McClellan amendment good-bye. The effect will be to nullify what the Senate Committee on Appropriations did without opposition and what the Senate itself, in effect, did by a vote of 55 to 21 on Tuesday last.

Under the amendment now being considered, the bombing in Cambodia could go on indefinitely, because I note from the news ticker this morning that "the United States is still identifying missing in action from World War II, a quarter-century ago, and it could take months—if not years—for the status of remaining Vietnam MIA's to be settled."

There is no person in this Chamber who is not interested—if not more interested—in the missing in action, just as we were interested in the release of the POW's, the return of the POW's, and the return of U.S. personnel in South Vietnam.

I think we ought to face up to the realities and recognize that our Government has created a joint committee which is now stationed in Bangkok for the purpose of finding and identifying some 1,400 or 1,500 personnel still listed as missing in action.

As the distinguished senior Senator from Missouri said, it is a tragic irony that the Department of Defense carried no MIA's in Cambodia prior to the January 27 ceasefire agreement. Since that agreement, however, two Americans have been lost in bombing operations and are now listed as missing in action.

If Senators want to create more missing in action, let them vote to continue the bombing. If they want to acquiesce in the present policy of the administration to continue the bombing, let them vote for this amendment. If they want to get out of Laos and Cambodia, and all of Southeast Asia, on a lock, stock, and barrel basis, they will see to it that the Eagleton-Brooke-McClellan amendment remains intact.

I have received 13 or 14 letters from men stationed at Utapao and Anderson Field in Guam.

Here is the last one:

Dear Mr. Mansfield: At long last, Congress is asserting itself in its opposition to American military involvement in Indochina. It is with deep interest that I have been watching the recent developments in the House and now in the Senate. I have a personal interest in such developments because I am a B-52 copilot currently stationed temporarily on Guam.

Of the several significant reasons which would justify an immediate halt to the bombing of Cambodia, the most significant is the questionable legality of the bombing. The reasoning behind the legality has thus far, at least, been flimsy.

In addition, the tremendous amount of fuel consumed by all of the B-52s in their daily missions contributes dramatically to the severe energy crisis being experienced in the United States. Utilization of B-52s alone, operating out of Guam and Thailand on bombing missions, use up approximately 2½ million gallons of fuel every day.

Also, a most serious concern is the possible loss of planes and men over Cambodia, thus resulting in additional prisoners being taken by the enemy.

The night crews engaged in these operations are truly being utilized as mercenaries. Apparently all that is required for B-52s and the various other aircraft involved in these operations to conduct their missions is a request by a belligerent government for such assistance. It is a frightening thought.

Mr. President, the only way to deal with this situation is to face up to our responsibility. The only way to do it effectively is to cut the purse strings. And that is what the Eagleton amendment does, because it locks off funds from any and all directions and any and all acts so that if the Congress speaks on this basis, it will mean that we will at long last—13 years too late—get out of Southeast Asia all the way. And, as far as the MIA's are concerned, this Government is making every effort, and will continue to do so, to attempt to identify them.

But if we want more MIA's, we should vote for the pending amendment and we will get them, just as we are getting them now in Cambodia.

If we want quicker action as far as the MIA's are concerned, we should keep the Eagleton amendment intact.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Missouri has 4 minutes remaining.

Mr. EAGLETON. Mr. President, I will be very brief because I could not add to the excellent remarks which the distinguished majority leader has just made on this subject matter.

The Senator from Kansas (Mr. Dole) said: "This is the least we can do," meaning the Dole-Helms amendment.

Mr. President, I say that this is the worst we could do insofar as this country is concerned. This gives the President the right to continue bombing as long as he sees fit, on and on and on, endlessly, in a new area of warfare.

As the Senator from Montana said, this will not recover the MIA's, and, unquestionably, this will add to the MIA list.

I repeat, in summarizing the testimony being given today by the Assistant Secretary, the administration is in contact with the North Vietnamese, and the effort is going forward insofar as recovering and identifying the MIA's.

Insofar as the Dole amendment enhancing the possibility of peace, I point out that all it would do would be to involve us in another war, but this time it would be called the Cambodian War.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield.

Mr. CHILES. Mr. President, I wonder if the Senator from Missouri or perhaps the Senator from Kansas could explain the meaning of the amendment to me. I

am trying to understand the amendment. The amendment says:

These restrictions shall be of no force or effect if the President finds and forthwith so reports to the Congress that the government of North Vietnam is not making an accounting, to the best of its ability, of all missing in action personnel of the United States in Southeast Asia.

That is the language as I read it. What I am trying to understand is, if this amendment is agreed to, would it not be to the advantage of North Vietnam to not make an effort, because if they did not make an effort, the restrictions would not be in effect.

Mr. DOLE. Mr. President, first there must be a finding by the President. Second, there must be a report to the Congress, and after the report is made, we could cut off the action just like that. If we did not cut it off, there would then be the bombing.

Mr. CHILES. Mr. President, would not the North Vietnamese want the restrictions not to be in effect?

Mr. DOLE. They want the Eagleton restrictions to be in effect, because then they could do anything.

All I am saying is that in this one rare instance, in this one small instance, we are talking about American MIA's. Some are from Florida, some from Kansas, and some from Missouri. In that one instance, where there is no effort made for an accounting, if the President so finds and reports to the Congress, we resume the bombing.

Mr. CHILES. Mr. President, it looks to me as this would in no way help the effort. It could confuse the effort, and I would not want to do that.

Mr. DOLE. Mr. President, I want to keep the pressure on.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, I yield back the remainder of my time.

Mr. PERCY. Mr. President, I think it is fair to say that my concern for the fate of Americans unaccounted for in Indochina is as great as any man's. I have supported every responsible effort to achieve the release of prisoners of war and a full accounting of those missing in action. I have conferred at length with the Department of Defense officials whose task is to find the missing Americans in Indochina, and I have told them that we will not be satisfied until the job is done.

However, at this time I cannot justify continued American air combat over Cambodia and Laos in an effort to put greater pressure on North Vietnam to release information about the missing in action. Passage of this amendment, I believe, would bring more American deaths, the taking of more American prisoners, and an increase in the number of Americans missing in action, for this would inevitably be the result of continued American participation in combat.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Kansas to the committee amendment.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

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Mr. STEVENS (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Connecticut (Mr. Weicker). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yes." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from North Carolina (Mr. Kyrre), the Senator from Connecticut (Mr. Riegle), the Senator from Georgia (Mr. Talmadge), and the Senator from Wyoming (Mr. McGee) are necessarily absent.

I further announce that the Senator from Alabama (Mr. Allen), and the Senator from Colorado (Mr. Harkins) are absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that the Senator from Maine (Mr. Muskie) is absent because of a death in the family.

I further announce that if present and voting, the Senator from Colorado (Mr. Harkins), the Senator from Idaho (Mr. Cannon), the Senator from Connecticut (Mr. Riegle), and the Senator from Nevada (Mr. Bentsen) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Utah (Mr. Bennett), the Senator from Colorado (Mr. Harkins), the Senator from Hawaii (Mr. Fong), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The Senator from Arizona (Mr. Goldwater) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. Cannon) is absent because of illness in his family.

The pair of the Senator from Connecticut (Mr. Weicker) has been previously announced.

The result was announced—yeas 25, nays 56, as follows:

[No. 161 Leg.]

YEAS—25

Bartlett, Pannin, Roth, Scott, Pa.
Beall, Griffin, Scott, Va.
Bellmon, Gurney, Sparten, Va.
Brody, Hansen, Taff
Buckley, Helms, Thurmond
Curtis, Hruska, Tower
Dole, Jackson
Domenici, Long
Eastland, McClure

NAYS—56

Albright, Hatfield, Montoya
Allen, Hatfield, Nelson
Bayer, Hollings, Nunn
Bentsen, Kennedy, Packwood
Biden, Magnuson, Pastore
Brooke, Mansfield, Pearson
Burdick, Humphrey, Pell
Byrd, Javits, Percy
Cannon, Kennedy, Proxmire
Case, Kennedy, Randolph
Chafee, Magnuson, Sarbanes
Clark, Mansfield, Schweiker
Coble, McClellan, Stafford
Cranston, McGovern, Stevenson
Eagleton, McIntyre, Symington
Fulbright, Metcalf, Tunney
Gravel, Mondale, Williams
Hart, Young

PRESENT AND GIVING A LIVE PAIR. AS PREVIOUSLY RECORDED—1

Stevens, for.

NOT VOTING—18

Allen, Baker, McClellan
Bartlett, Bennett, Muskie
Bible, Byrd, Ribicoff
Cannon, Church, Stennis
Goldwater, Talmadge
Harkin, Weicker

So Mr. Dole's amendment was rejected.

The PRESIDING OFFICER (Mr. DOMENICI). The question recurs on agreeing to the committee amendment on page 58.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MCCLELLAN. Mr. President, I yield back the remainder of my time.

Mr. EAGLETON. Mr. President, 2 days ago, the Senate voted overwhelmingly to support the motion I raised over the germaneness of my amendment, section 305 of this bill. It was only a procedural vote, but the message delivered by the Senate was clear—there is finally a majority in both Houses willing to put an end to our military involvement in Indochina.

A number of the old, familiar arguments were wheeled out by the opposition, but this time it seemed only a faint echo of a distant past. We were told that we must wait to hear the results of the negotiations—that we must maintain the credibility of our Government—that we must help the President maintain "peace with honor" by continuing to wage war.

But this time the majority was marching to another beat—a beat that said that the maintenance of our legal system is more important than a policy devised by the President but never approved by Congress—that America is afraid of reinvolvement in Indochina—that the destruction of an agrarian society is not worth the ambiguous policy goal our bombing is supposed to achieve.

Today we will hear the same opposition voices arguing that Congress should sit on its hands and allow the President to handle the Nation's problems. But I am confident that those voices will again be quelled by the marching beat of a determined majority.

We heard a great deal 2 days ago about the "shattering" of Senate rules. But opponents of my amendment seemed less eager to talk about the shattering of the rule of constitutional law by the President's unilateral decision to conduct combat activities over Cambodia and Laos in the absence of congressional approval.

The administration's rather interesting legal position is that, since the President had authority to conduct combat operations in Indochina prior to January 27, he retains that authority to carry out the provisions of the Paris ceasefire agreement. But as I attempted to demonstrate yesterday, both the administration and Congress were in agreement that the only authority possessed by the President prior to January 27 was the authority to protect American forces.

The administration argument seems to fall heavily on article 20 of the Paris ceasefire agreement. It would, therefore, be instructive to examine that article to see where it pertains to the President's constitutional powers to wage war unilaterally.

The sections of article 20 most often cited by the administration read as follows:

(b) Foreign countries shall put an end to all military activities in Cambodia and Laos, totally withdraw from and refrain from reintroducing into these two countries troops, military advisers and military personnel, armaments, munitions and war material.

(c) The internal affairs of Cambodia and Laos shall be settled by the people of each of these countries without foreign interference.

Article 20 is, of course, an agreement unilaterally executed by the administration. While it carries obligations to the respective parties under international law, it carries no weight whatsoever under the constitutional law of this Nation. It therefore may be considered a legitimate commitment to withdraw, but it can never constitute legal authority to continue combat activity which, after the total withdrawal of all American forces, can no longer be justified on the basis of unilateral Commander-in-Chief powers.

It should also be pointed out that article 20 was concluded as part of a peace agreement signed by three Vietnamese parties and the United States. No Cambodian or Laotian elements were represented at the Paris negotiations. It is, therefore, difficult to accept the administration's argument that "implementation of article 20 can only be satisfied by a cease-fire agreement among the disident forces in Cambodia."

Article 20 does not mention the word cease-fire. We are, therefore, technically left with the more amorphous requirement for reciprocal withdrawal. We say the North Vietnamese have not withdrawn, and they say the same about us. And what was probably a purposely ambiguous part of the Paris Agreement becomes, in the administration's mind, a vehicle for an indefinite American commitment.

The President had no statutory authority to initiate combat activities in Cambodia before the cease-fire agreement. Prior to March 28, our air operations were based on the President's claimed authority as Commander in Chief "to protect the lives and security of our men in South Vietnam." The basis of the President's own claim was thus eliminated when the withdrawal of U.S. forces was completed.

But, in a clumsy attempt at legal gymnastics, the administration has chosen the obscure article 20 as its authority. It was as good a choice as any because, short of specific congressional approval, the President's legal position is indefensible.

We also hear the familiar argument that Congress should wait for the results of Dr. Kissinger's negotiations. But even assuming we would agree to ignore the obvious abuse of the Constitution—and I would not—how long would we have to wait?

It had been rumored that a draft protocol on the question of Cambodia had been agreed to. The administration preferred to leave us with the impression that Ambassador Sullivan was simply seeking the expected concurrence of our

Chairman KERRY. Mr. Secretary, thank you. I was just reading that debate. I think that is a really interesting and a very important point that Senator Brown has made, and worthy of the committee factoring in here. It underscores to me some of the questions that I was raising earlier. I want to come back a little bit to them and truly hope that we can settle on an understanding here of what may have occurred.

As I read the debate on the particular resolution, all of the talk in the debate is about MIAs. It is all about accountability for MIAs.

I want to go through a little bit of a sort of sequence to give you an indication and see if you do not agree with me that there is not something in the public perception that happened that may have also shifted our thoughts about this issue.

I have tried to draw—and also let me say to Senator Brown, I think I said at the outset of this hearing, I think you got the best agreement you could. I said that at the very beginning. I am proud to acknowledge there were, as people have written many times, extraordinary moments of your deftness, brilliance, capacity to negotiate with very difficult levers. And I want that on the record. This is not about your ability to negotiate an agreement. We conceded that you have made your mark in history on that.

This is about what happened in America to, perhaps, create a confluence of events that, beyond anybody's ability to change it, may have contributed to this lack of accounting. Now, I assert that there is a distinction between talk of MIAs and that which has driven this issue over the years.

People are interested in getting an accounting of MIAs. But people are passionate, just emotionally entangled, in concern over POWs. The case that I read to you at the outset of this hearing was not about an MIA. It was about a POW.

Now, my own impression is that Americans would have reacted differently at that point in time over a debate if someone went to the floor and they were not debating abstractly about accountability for MIAs, but they were debating specifically about, you know, Mr. Sparks or specifically about Ronald Dodge, and somebody came to the floor and said, Ronald Dodge was a prisoner. We saw his photograph. We know he was held. They paraded him through the street. He did not come home.

Now, I say this not to challenge you, because I do not think you, from what I can see from the record, had all of that hard information in front of you all the time. I am not sure it was on the radar.

But what I do know happened is this: That there is a big distinction between what our Government was saying and what you were saying to the American people and to the Vietnamese before Operation Homecoming, and our attitude toward this issue after Operation Homecoming, specifically. I am struggling to understand that distinction. It centers around the Roger Shields time of that press conference, around the time of the President's speech.

Before Operation Homecoming, our officials in the military, and you in the executive, expressed the conviction that POWs were about to be left behind because the Laos list was incomplete. But after Operation Homecoming, the statements seemed to have shifted and been calibrated more toward putting people at ease, and

urging an acceptance or encouraging the belief that the goal had been achieved.

Now to illustrate, let me just share with you—and I say this only to help us understand if something triggered, maybe, a release or relief or something.

On February 1, 1972, you said to Marvin Kalb in an interview, quote: it doesn't look to us as if the Laos list could be complete. You have acknowledged that. And there was talk about maybe 40 more or so.

The next day, on February 2, the President cables the North Vietnamese Foreign Minister that, quote: the list of American prisoners held in Laos, which was presented in Paris, is unsatisfactory. And you so stated here today. We called it to their attention.

So, in February it is unsatisfactory. In March, you send a message to Le Duc Tho saying that the U.S. side has become increasingly disturbed about the question of American prisoners held or missing Laos. I emphasize this is all Laos, not Vietnam. The U.S. side has made clear on many occasions that the list of only 9 prisoners presented belatedly by the Pathet Lao is clearly incomplete.

The reason it was presented belatedly, as you remember, is the North Vietnamese actually held these people and set up a fiction of returning them through the Pathet Lao. But in point of fact, the Pathet Lao never returned anybody, nor accounted.

On March 22, Admiral Moorer orders a halt to the withdrawal pending receipt of, quote: a complete list of all U.S. POWs, including those held by the Pathet Lao. One day later, Admiral Moorer rescinds his order of the previous day and tells General Woodward of the negotiating team, quote: we intend to pursue the question of other U.S. personnel captured and missing in Laos following the release of the men on the February list.

On March 27, Acting Secretary of Defense Eagleburger says in a memo, the Pathet Lao, quote: may hold a number of unidentified U.S. POWs. Though we cannot accurately judge how many, there appears to be the need for a well orchestrated plan for solving the problem of Laos POWs and MIAs. But then on March 29—that is 2 days later—Operation Homecoming is complete and, literally, the tone shifted.

The Commander in Chief, the President, while he did acknowledge that there were still MIA problems, said that all the prisoners are home even though, as I said, we had people we thought were prisoners who were not home.

In your book, you cited the notion—and I only say this to document the concept that we were concerned about the return of prisoners. You said: when Nixon addressed the Nation on March 29 to mark the return of our last prisoners of war. Not the ones on the list, but our last prisoners of war. Indeed, that is about the time that Roger Shields makes his comment, about a week later.

Dr. Shields attends a meeting with the President where the question of whether there are indications that POW/MIAs are alive is apparently discussed, according to memoranda we have. And then you go through a series in which the Secretary of Defense bars any changes of status from MIA to POW, even though there were 50 recommendations plus that people now be recorded as POW.

So my only concern here, and maybe you can explain it to us is, what happened to shift this notion that we needed this plan that Elliott Richardson referred to. What happened to shift away from these people that we knew to be POWs with a specific name, face, and history into this sort of abstract discussion of MIAs, or were you even privy to that? It may be that you had—because it has been told by a number of people—that at that point your attention was shifting somewhat to the Soviet Union and China, and you were sort of in and out of this at that point.

Dr. KISSINGER. Mr. Chairman, first of all, my attention wasn't shifting from the American prisoners and the missing in action. I went through 4 weeks or nearly 4 weeks of negotiations on the enforcement and carrying out of the peace agreements from May 17, give or take, until June 13. So, my attention was certainly not shifting, although there are very many amateur psychiatrists around who are happy to explain to you what motivated me at various stages, and in inverse proportion to their knowledge of what I thought.

One problem, Mr. Chairman, and we won't have time this afternoon, that really ought to be discussed is this. This committee has correctly called attention to the overclassification of documents, and to the importance of making more information available. But I would tell you as a historian of the present procedure of having hundreds and thousands of documents analyzed by lawyers who are very able and very fairminded, and then taking one sentence out of these documents—when there were hundreds of hours of negotiation; each negotiation preceded by an equal number of hours of preparation; each preparation embedded in hundreds of hours of collateral conversations. And all of this enmeshed in a domestic civil war.

I would urge, when this is over, that serious people get together between the Executive Branch and the Congress and try to figure out a way by which the need of declassification, the need of history, and the need of fairness are taken care of. And I'm not implying that there's any deliberate unfairness.

Chairman KERRY. No. We would hope that could happen.

Dr. KISSINGER. Now, you have presented a truly bewildering array of facts, semievents, events that have no necessary relation to each other. It is true that in our mind, at least at first, there were only two categories—prisoners or missing. And in our mind, if somebody was not a confirmed prisoner, he was missing.

Now, the case—I forget what his rank was—I know exactly the case you mean, because it is the most flagrant case of those that were presented. In that case, we may have thought that he probably died under circumstances that they did not want to reveal, or we had not established a grey area for one or two of these cases.

In our mind, however, our dissatisfaction with the missing in action was that we did not know whether they were alive and we did not know whether they were dead. And we wanted very badly to get that issue settled. This is how it appears to us.

You have mentioned, and Senator Smith mentioned to me privately and indicated he might wish to pursue it himself, the events of that week of the 20 to the 28—and I have seen newspaper accounts that this seems to be a seminal event. I was on vacation,

actually, during most of that week, so I was not a personal participant, though I want to emphasize, I am responsible for any action taken by the National Security Office, and I had perfectly good communications. I was just not in the day-to-day discussions.

My perception of the strategic problem was as follows. We had the problem of getting the last prisoners back on March 28. We knew there were 150 in Vietnam and 10 that were ascribed to the Pathet Lao, but who probably were in the category which you correctly described as having been held in North Vietnam, given to the Pathet Lao, and returned by the Pathet Lao then as part of the peace process.

We had as bargaining chips the withdrawal of forces, which at that point was of minimal significance because I think there were only 5,300 left, none of them having a combat capability and none of them being relevant to what we might want to do. On my scope, these were bargaining chips for the March 28 deadline. On my scope, the important option was the resumption of military operations. My view was to attack the Ho Chi Minh Trail and associated areas. But it doesn't matter what the purpose was, and that is what I was focussing on.

That was related to the issues that were left after we had our prisoners back, of which the missing in action—what we called the missing in action—were a principle element. And to me, the Richardson memorandum was not a spectacularly new document because I had already made all the points in the Richardson memorandum to Le Duc Tho and Pham Van Dong on February 10 and 11 in Hanoi. That was conventional wisdom. It was perfectly correct.

And, for the second part of it, how then to get the agreement observed in my strategic concept it would have been taken care of in the context of overall military operations, and not in the context of the return of the last tranche.

On the messages of Admiral Moorer, he will testify here himself, and he will no doubt give you his perception. Admiral Moorer never sent a message without approval, never would have cancelled a message without clearance. I interpret what he said was, we want those 10 prisoners from Laos back on March 28, and we are holding up our troop withdrawals until then. I would be amazed if he had in his mind the list on the missing with respect to the troop withdrawal issue.

My attention didn't wander. My concern didn't wander. Now, I do feel I owe President Nixon one comment. I worked with him for over 4 years. I was never a supporter of his before he became President, and he did me the honor of appointing me even though I had been a lifelong opponent of his. And we were not personal friends, but respected each other's views.

In the field of foreign policy and national security policy, I never saw him engage in any political motivation. What he had subconsciously, a lot of people can say. He took huge risks in difficult circumstances, for example when he mined Hanoi or Haiphong 2 weeks before a summit, 6 months before an election. It is true, I wrote in *The Years of Upheaval*, that Watergate influenced what happened in April. But Watergate influenced what happened in April not in terms, in my view, of the President's decision but in

terms of what the Congress was already doing starting in January. And it was just becoming bolder and more assertive. And that is the sadness of that period.

Certainly, Watergate was one element. To be very frank with you, Mr. Chairman, when the war ended I thought the people who were for peace and the people who gave priority to honor would come together. But many of those who had been opponents of the war seemed to feel that if anything was left of that war, America might do it again. And, therefore, many moved heaven and earth to prevent what was needed, which was help to Saigon and some of these other measures.

I know this is my version, now, of psychology. But this was the sadness. If we could have come together afterwards; if you and I could have gone to the Congress and said, this needs to be done, it would have been done and we might not be here today.

Chairman KERRY. That may well be, and it is part of the sadness at the time. It is a statement about the process of loss of credibility, beginning with Lyndon Johnson and going all the way up. That is where we wound up. It is a tragedy.

The only question I guess I was really getting at, and Senator Kohl is here and I do not want you to answer my question now, but I lay it on the table, was whether that bringing together might or might not have been enhanced by query—and I only say query—if there had been something more forthcoming about the beliefs and doubts which we are now hearing expressed by these higher officials 20 years later. If more people, in a sense, had been debating a name rather than an abstraction, query—and I only say query—whether that would have made a difference or not. I do not have the answer to that, and maybe you do not either, but I think it is a question one has to ask.

There is another document here that is sort of a key document, but I cannot ask you about it now because we did promise Senator Kohl if he came back from presiding he could have a turn.

Dr. KISSINGER. And you understand, I really cannot stay more than 15 minutes longer.

Chairman KERRY. It is Senator Kohl's time and we will try to fit in what we can. Maybe we could have it on the record.

Senator KOHL. Thank you very much, Mr. Chairman. I will get right to my questions, Dr. Kissinger.

Dr. Kissinger, we all know what you said about your state of knowledge with regard to the POW issue in 1973—can you hear me?

Dr. KISSINGER. Not very well.

Chairman KERRY. Pull it a little closer.

Senator KOHL. Dr. Kissinger.

Dr. KISSINGER. Now I can hear you. Thank you.

Senator KOHL. We know what you have said about your state of knowledge with regard to the POW issue in 1973, but based upon what you know now in 1992, do you believe that live Americans were held in Indochina after Operation Homecoming?

Dr. KISSINGER. As I stated, I really cannot go beyond my statement. I think it is possible that they were held, and it would have been in total violation of the agreement. We did not have any in-

formation at the time that I was in Government that was considered reliable.

Senator KOHL. I do not doubt what you said. But all of us are sitting here today and wondering what was the case then, and we all try and make the best judgment we can. What is your best judgment as to now, today, would you suggest that perhaps some POWs were held after Operation Homecoming?

Dr. KISSINGER. I said to the families of the missing in action, I believe it was 1974, that I believed it was possible that a few were held in Laos, and that's about as much as I can say today.

Senator KOHL. All right. Dr. Kissinger, assume that in 1973 after the accords were signed, assume that you had absolute evidence, hypothetically, that 200 live Americans were being held in North Vietnam and Laos. What would have been done at that time? Would you have advised the President to make that information public? Would you have advised him to continue and perhaps even to intensify the war until those people were released, even though that might have led to additional American fatalities and POWs?

Dr. KISSINGER. You're talking about what period now, Senator?

Senator KOHL. Back in 1973, after the accords were signed. If you then had absolute evidence that there were live Americans.

Dr. KISSINGER. My recommendation off the top of my head, certainly, I would have made it public. I would have probably recommended giving Hanoi a very brief time period in which to return them, after which I would have declared the ceasefire void and resumed military operations, assuming we could have got requisite support. That would have been my recommendation I believe now.

Senator KOHL. All right. I will come back to that.

Let us move away for a minute from the specifics of Vietnam and ask a few general questions, Dr. Kissinger. In your view as an historian, would it be fair to say that the use of POWs and MIAs as bargaining chips is not unusual in war?

Dr. KISSINGER. I would say that's correct.

Senator KOHL. All right. As a policymaker, would you recommend the continuation of a war that you could not win, a war which would, as all wars do, extract a terrible human cost, in order to get a clarification of the status of MIAs and suspected POWs? To put it another way, when you make a policy decision about whether to end a war, is it legitimate to say that the benefits of ending the conflict outweigh the costs that we would have to pay if some of our soldiers were left in captivity or never had their fate determined with any certainty?

Dr. KISSINGER. All right.

Senator KOHL. Again, as a policymaker, do you think it would be helpful if the United States had a clearly articulated policy about POWs and MIAs? We have, for example, an overt policy on terrorism. We will not negotiate with terrorists holding hostages. Would a similar overt policy about POWs and MIAs be helpful?

Dr. KISSINGER. It depends what the policy is.

Senator KOHL. Well, for example, that we will never terminate a conflict until we believe that all prisoners are returned and all MIAs accounted for, or conversely, that we consider soldiers as elements of the negotiating process and will not yield to certain demands simply to secure their return.

Dr. KISSINGER. I would certainly agree that we should not end a war unless we feel confident we can either enforce an accounting for the missing in action or, in fact, obtain an accounting for the missing in action.

Senator KOHL. Well, what decision do you make when you come to a situation in which an unwillingness to terminate the conflict until that final accounting is made—and perhaps there are 100 involved—involves continuing the war, knowing that it will cause casualties of perhaps 10,000?

Dr. KISSINGER. It's very difficult to answer that question in the abstract, Senator. In the specific conditions of Vietnam, of which we are now talking, if we had said we will not end the war until we have a full accounting of the missing in action while the war was going on, because that's what you are implying, then the war would never have ended. Because the Vietnamese would have believed that no matter what accounting they give us we would declare it not to be enough and therefore continue the war ad infinitum on terms which we controlled because only we could determine whether we were satisfied.

Therefore, we had to settle under conditions in which they undertook the obligation to return the missing in action. If their performance on this was unsatisfactory, then the only solution left—according to my recommendation—was the resumption of military operations.

But I would not make a hard and fast rule the way you have described it.

Senator KOHL. In that case, you are suggesting that had you been certain that there were 100 or 200 unaccounted for after we had made our arrangements and accords, you would have recommended the resumption of the war?

Dr. KISSINGER. Almost certainly.

Senator KOHL. All right. Finally, Dr. Kissinger, as both a policymaker and as an historian, do you think that additions should be made to the international law governing POWs? Would it make sense, for example, to have POWs delivered to a neutral party and held by them during the course of a conflict? Is there any way we can make changes in international law so that we can avoid these problems in the future?

Dr. KISSINGER. I haven't thought about this problem sufficiently. It's worth studying. I simply have not reflected on it enough to testify to it.

Senator KOHL. Thank you.

Thank you, Mr. Chairman.

Chairman KERRY. We have a couple of minutes extra, do we, Mr. Secretary?

Dr. KISSINGER. Yes. I've got 10 minutes for Senator Smith, if that's convenient.

Chairman KERRY. OK, Senator Smith.

Vice Chairman SMITH. Thank you, Mr. Chairman. In respect to your time, Dr. Kissinger, let me just touch two areas, and I will try to do it quickly. The first one relates to the Joint Economic Commission that was formed—well, actually, Nixon proposed it. I think President Nixon proposed it on February 1. I think you went to Hanoi around the 10th, and then there was a joint communique

issued between the two countries on February 14. There was a meeting on the March 15, April 19, June 18, and July 25 are the ones that I am aware of. There may have been others.

At the last meeting of that Joint Economic Commission, the United States suspended the talks—or right after the last meeting we suspended the talks—and the reason was because the Vietnamese were not cooperating on POWs and MIAs. On August 1, Vietnam's Foreign Ministry accused us of delaying and using the typical propaganda. Then the Vietnamese immediately accused us of having agreed to the plan of the Joint Economic Commission and stepping away from it.

Now, I gave you a copy of what was submitted to the Montgomery Commission in 1975—Montgomery Committee, I believe, not the Commission. Did we agree with that document, which lists a huge amount of specific items that we would give to the Vietnamese as a form of economic aid if, in fact, the conditions of the POWs were met?

Dr. KISSINGER. I will have to assume yes, but I cannot testify from my own knowledge. It must have come out of the Commission.

Vice Chairman SMITH. Right. Well, the key is they are saying that we agreed to it and then pulled away from it.

Dr. KISSINGER. They knew that all of this was ad referendum—that this was something that they were doing to discuss. But then, at a minimum, before we agreed to it, we would have to submit it to the Congress. And there were endless discussions about this.

Vice Chairman SMITH. Well, the key here is that I still believe that one of the real problems that we face is the result of—the reason why we are still having problems is I believe the Vietnamese correctly or incorrectly concluded that economic aid was tied directly to the POW issue, even though that may not have been the intention of the administration. I think that is what they thought.

Dr. KISSINGER. If General Walters is a good interpreter, they could not have had that view.

Vice Chairman SMITH. Well, the point is in March and April—the March 28, March 25, was when we implemented the final phase of the agreement regarding prisoners, and we had this first meeting on the 15th and this list of things was drafted, that is all. The point I am just trying to make is that we got down to some pretty specific items regarding economic aid. But if you say—did you say we did or did not agree to it? I did not hear what you said. You do not think we did.

Dr. KISSINGER. I hate to confess that I was not in charge of everything, as is always alleged. I've never seen this list.

Vice Chairman SMITH. They accused us of not signing it. They said that we agreed to it and then did not sign it. That is what they accused us of.

Dr. KISSINGER. Well, that doesn't mean that it isn't a valid list. It just means that it didn't go through my hands. But it was always understood that the only context of economic aid—if you read all the things that we ever said—it was in the context of peace and in compliance with agreements. The Vietnamese have a peculiar system in which they violate literally every provision of an agreement, and then they say "but on the unilateral statement you've

given to us that one has to be carried out in the name of the agreement."

Vice Chairman SMITH. Let me quickly move to the last item. In a chronology that I put together there are probably 25 references over a period of 3 months to POWs in Laos by various administration officials during the time of the accords, from roughly February 1 to the end of January, right through March 21, and the question I have, on March the 21, and again, I am looking—the picture that I am trying to get at here is I believe I do not see any difference looking at it today. I realize looking at it today might be different than looking at it in the contemporary manner. But looking at it today, I do not see any difference between what we were doing before the agreement was implemented and after the agreement was implemented regarding the information we were collecting on Laos. I do not see any demarcation line.

Now, let me just quickly reference that. On March 21, we told the Vietnamese in writing, quote, the withdrawal of U.S. forces will be completed in accordance with the terms of the agreement and coincident with the release of all—I repeat, all U.S. POWs held throughout Indochina. Withdrawal of U.S. forces will commence after the U.S. has been provided a complete list of all U.S. POWs, including those held by the Pathet Lao, as well as the date, time, and place of release.

We already had February 1 lists, which we knew of. Thus, we did not stick to the terms of the March 21 letter because on March 21 we told the Vietnamese we are not going to withdraw until we get a list of all the POWs in Laos. That is what we told them. But we did. And that is my point. What happened, what was different in that week that led the Administration to go ahead and implement the agreements and to accept that last—the last POWs from Vietnam?

Dr. KISSINGER. Not—not—

Vice Chairman SMITH. You mentioned the Congress—let me have one more point and then I will take your answer.

Dr. KISSINGER. Please.

Vice Chairman SMITH. You mentioned the Congress. Did you consider coming to the Congress, and saying look, guys, if we do not—

Dr. KISSINGER. No, I don't think the key impact of the Congress was in that way. The key impact of the Congress, as I remember it, was in two periods. First, from around February 15 to March 15, near the time that President Thieu visited the West Coast, and it was already a painful thing that he could not be received in Washington for fear of demonstrations, and in the middle of March a big campaign started that we did not have the right to enforce the agreement. This was the general situation.

The next big impact occurred, in my mind, at least, from about the beginning of April building to a crescendo in the various resolutions that cut off all possibilities of military action at the end of June 1973.

In the period March 17 to March 26, I went on vacation. I would not have gone on vacation if I had thought that was a seminal week. I interpret these messages—which you have to remember are drafted by tired, harassed people at the end of the day when they

were told to get a message off to General Guay. We did not have the benefit of legal advice, of how do we phrase this, so that Mr. Codinha can't catch us 20 years later in some seeming inconsistency—

[Laughter.]

Dr. KISSINGER. What I interpret this message to be is apparently what happened was that the Laotian prisoners were not on the list that were supposed to be released on March 28. Therefore, I interpret the Moorer message to mean we want these Laotian prisoners on that list and we want them released March 28. And when that was done, I guess then troop withdrawals proceeded.

But to my thinking, I did not pay as much attention to the 5,300 that were left, frankly, as I did to the intention of what we were going to do in April.

Vice Chairman SMITH. Well, I know we have to wrap up. Let me just say this: My only concern here is that it was emphatic that the March 28 agreement would not be implemented unless and until some type of accounting was made for those who we believe—I mean, that—you are shaking your head, Mr. Cutler, but the documents support that. I have got the documents.

Dr. KISSINGER. No, no. You are undoubtedly reading the document correctly. You would have to ask the drafters of the document. In my mind, and I was responsible for the overall strategy. In my mind, there were two separate problems, one was the March 28 release. The other one was to get enforcement of the agreement, including especially missing in action. President Nixon had decided that the enforcement was not going to happen until the 160 came back. So I look at the messages in the period March 21 to March 28 in that context.

Vice Chairman SMITH. My final point: The thing is, what happened, you—the Vietnamese did not comply by doing what they said they would do regarding Laos. And the agreement was a side agreement with Laos between the Royal and the Pathet Lao, and we were not a party to it so the Lao issue was hanging out there. And my point is that if your concern, as you indicated in your testimony, was that we would not have the support to resume bombing or do whatever we had to do to bring the Lao back to the table or bring the Vietnamese back to the table on this, then why did you not just come to the Congress and say OK, guys, here is the story.

We have not got the information yet on Laos. We are getting information there may be POWs there. Now, are you guys prepared to support us to resume the bombing to get them, or what do you want us to do? I mean, to me, that would have been a sensible plan of action.

Dr. KISSINGER. I'll tell you, Senator, if you, Senator Kerry, and I could have gotten together to do that, that would have been the right thing to do. I don't know what President Nixon would have done at the point that he decided to resume the bombing. He decided in early April, as he said in his book on Vietnam, No More Vietnams, he said—

Chairman KERRY. It made a big impression on you.

Dr. KISSINGER. I beg your pardon?

Chairman KERRY. Sorry.

Dr. KISSINGER. He said that he decided not to bomb in April because the Ho Chi Minh Trail was closing down anyway. And second—this he did not say, but I know that—because he wanted the other negotiation to continue.

What he would have said to the Congress in June, how he would have positioned it, I cannot tell you. And I think in retrospect, and I've said this often, we in the Nixon administration took too much on ourselves. We made a mistake in feeling that our responsibility to the national honor required us to do things, and it would probably have been better positioned on a number of issues if we could have had a broader consensus.

Chairman KERRY. Your last statement, Mr. Secretary, is a very important one.

Dr. KISSINGER. May I read, however, Senator, the decision that was made at the WSAG meeting about this last tranche that you're talking about:

"The U.S. troops in the third tranche who are still in Vietnam will not be withdrawn until the third tranche of POWs has been released, the third tranche of POWs. The withdrawal of the remainder of the troops will not begin until we have received the list of the last group of POWs and the withdrawal will not be completed until all of our POWs, including those in Laos, have been released."

That meant to us, including those 10. And I think one of the difficulties in the discussion here is that we only had two categories listed, POWs and missing in action, and that for the gray area we did not have a specific category.

Chairman KERRY. That was from what that you read, because I want to make sure that we focus on that.

Dr. KISSINGER. This is March 13, Washington Special Action Group, which is the basis for the cables of Admiral Moorer. I hope that's what his recollection is, too.

Chairman KERRY. Mr. Secretary, we have given your counsel one document, and in good faith, number one, I want to say that this document did not leak, and I think—I think you will agree it is a document which, if someone were really out to make mischief it is a document that without explanation one could try to make mischief with. And it is also a document that any of us here today certainly could have tried to make mischief with.

I present it to you not to make any mischief, but because it is declassified, the public is going to see it. And I am not going to characterize it. I assume it has something to do with a negotiating strategy, but read on its own without explanation, it might be subject to other interpretation. I wanted to ask you if you want to put it on the record today. Do you have that one there?

Dr. KISSINGER. Yes.

Chairman KERRY. Do I need to read any of it, or do you want to explain it?

Dr. KISSINGER. No, I know what it says. This was a discussion with President Thieu in August 1972.

Chairman KERRY. The document will be put into the record.

Dr. KISSINGER. You know, I don't know whether it's very fair to throw this document out when you know I have to leave.

Chairman KERRY. I am happy to have you file a written response and we will not make it public until you do.

Dr. KISSINGER. Well, but—

Chairman KERRY. We will not make it public until you do. There is no trapping here, Mr. Secretary. There are a lot of questions, and if I had wanted to make this a big issue I obviously could have read it myself and made something of it. It will not be made public and we will solicit your written explanation.

Dr. KISSINGER. No, I will answer it now, because it can only create the impression that something terrible is being kept secret.

Chairman KERRY. Well, sir, the problem is this has been released, I gather from the executive.

Dr. KISSINGER. Yes, but, Mr. Chairman, you asked for the declassification so you can't say now that you are not responsible for its being released. And it's a very curious procedure where you people can fish around to find something that you think might be potentially embarrassing, and put out nothing that is on the other side, which is what I have been saying all along.

Chairman KERRY. Mr. Secretary, I am not trying to make any case with this, I assure you. I personally have given this to your counsel and we are asking you in the nicest fashion. I am not trying to create something.

Dr. KISSINGER. I wish you had raised it this morning where we could have spent an hour on it or half an hour on it, but I will answer it now.

Chairman KERRY. I thought truly that I was being fair to you by not allowing this to be one of the records released today that does not have an explanation. And I do not know—I suspect I know how to interpret.

Dr. KISSINGER. Well, Mr. Chairman, one way to have done that would have been this morning, to raise it and to go through it systematically.

I have nothing to hide in this document. This was a conversation with President Thieu at a moment when I thought the negotiations were breaking. My problem was to keep in harness the various elements of the negotiation, keeping in mind that the American people were eager to have the war ended and beginning to see that the North Vietnamese might be willing to concede our program.

President Thieu was concerned that we would—I don't have the exact document here now—that we might settle for a ceasefire with North Vietnam only, in return for our prisoners. And I was trying to reassure him on the point that I made all morning that we had not fought a war for 4 years simply to get our prisoners back, that we would remain dedicated to the independence of his country, which was our position.

You are referring here to one statement where I say I hope they don't make this offer, and there are several statements in there where I said first, we will stop at nothing to get our prisoners back, second, if they accept our May 8 proposal we are bound to accept it, which is exactly what we did, Mr. Chairman.

When they accepted our May 8 proposal we accepted it, and the very people who sometimes say we didn't do enough to get our prisoners are also saying we then did it behind the back of President Thieu.

I told him if the May 8 proposal is accepted, we will accept, and we did that. I told him we did not want a ceasefire only for prisoners, and we did not. I said we hope they don't offer us the prisoners under these conditions. I had the problem of convincing him that we were not selling him out and convincing him also that we would honor our word to the American public. And as far as I am concerned, as long as you publish with it what I have just told you, you can release this document.

[The information referred to follows:]

SA 99 B-38

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

~~TOP SECRET/SENSITIVE~~
~~EXCLUSIVELY EYES ONLY~~

MEMORANDUM OF CONVERSATION

PARTICIPANTS:

President Nguyen-Van Thieu
Mr. Huynh Phu Duc, Special Assistant to the
President for Foreign Affairs
Mr. Hoang Duc Nha, Press Assistant
Ambassador [REDACTED]
Henry A. Kissinger, Assistant to the President
for National Security Affairs
[REDACTED] NSC Staff Member

DATE & TIME:

Friday, August 18, 1972 10:00 a.m. - 1:30 p.

PLACE:

Presidential Palace, Saigon

NOT RELATED TO
POW / MIA'S

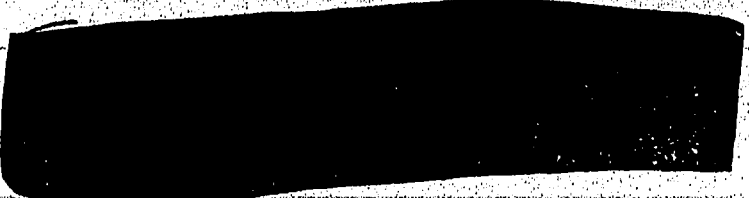
~~TOP SECRET/SENSITIVE~~
~~EXCLUSIVELY EYES ONLY~~

Sanitized

DECLASSIFIED
E.O. 12356, Sect. 3.4
NSC, Van Tassel authority 9/15/92
By [REDACTED] NARA Date 9/15/92
(SA 99)

~~TOP SECRET/SENSITIVE~~
EXCLUSIVELY EYES ONLY

NOT RELATED TO
POW/MIA'S


Dr. Kissinger: It is also in our interest. I thought at first it would be best to have a ceasefire as soon as possible because of our election. But upon reflection I have decided that it is easier if we keep up the bombing through the elections, unless in your view your military situation requires a ceasefire. You see, our strategy is that we are prepared to step up the military pressure on the DRV immediately, drastically and brutally one or two weeks after our election. We want to be in a position that they have rejected our reasonable proposals. After that we will put everything on the prisoner of war question. They think they can use the prisoners of war to overthrow you. If we can move quickly after the elections, we can destroy so much that they will not be in a position to come back and harm you for a long time to come.

Mr. Duc: Are we clear that we are including agreement on supervision before a ceasefire?

Dr. Kissinger: Yes, but I don't think there will be a ceasefire. In fact I prefer that they don't return the prisoners of war and that there is no ceasefire before the election. If Le Duc Tho returns on September 15 and proposes a ceasefire I will say in principle that I agree but that the details must be discussed at Avenue Kleber and then we can insist on international supervision before the ceasefire. Second, if their proposal with regard to the ceasefire does not involve a return of prisoners of war, then we will only stop the bombing and not remove the mines. We will not stop the mining until the prisoners of war are returned. Is that clear? It is important that in the next two months there be mutual confidence between us. We cannot control what others say and I do not know where Time Magazine got its story, but a certain amount of confusion may be desirable in any event. To sum up, we will insist that ceasefire modalities are discussed at Kleber and not separately between us and them.

~~TOP SECRET/SENSITIVE~~
EXCLUSIVELY EYES ONLY

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E.O. 12356, Sect. 3.4
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By: AHT NARA, Date 9/15/92
(SA 99)

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~~TOP SECRET/SENSITIVE~~
EXCLUSIVELY EYES ONLY

NOT RELATED TO
POW/MIA'S

President Thieu: How about the return of prisoners of war?

Dr. Kissinger: They may not return the prisoners, or perhaps they will return them when they are convinced we don't care any more. We will make one tremendous effort to get back the prisoners and in this effort I can assure you we will stop at very little. It is out of the question that we will make any additional concessions after the election.

~~TOP SECRET/SENSITIVE~~
EXCLUSIVELY EYES ONLY

Sanitized

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E.O. 12356, Sect. 3.4
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By: AHT NARA, Date 9/15/92
(SA 99)

TOP SECRET/SENSITIVE
EXCLUSIVELY EYES ONLY

President Thieu. They cannot accept and they will continue to fight but I still believe that after the election they will have to revise their policy. They will have to negotiate a temporary peace or continue protracted warfare. If they continue protracted warfare, we may have the prisoner of war issue if you exert pressure on them. Do you foresee any possibility that they will ask for a settlement which involves only prisoners of war? What kind of offer would you think they might make for a prisoner of war solution?

Dr. Kissinger. At some point we may have to accept the prisoners of war for an end of the bombing. But if so, it will be at a point when we have severely weakened them. At some point we may have to stop the bombing for this. Maybe in the second half of next year. But what they want is for us to also stop military and economic aid. If we agreed to stop such aid we could settle now, but we will not do this. We have to get to a point where you can continue to fight with a minimum of direct U.S. involvement, but with continued military and economic assistance. We can also try to influence their allies not to arm them in such a way that they are capable of repeating military activities on the scale of the past few months.

NOT RELATED TO
POW/MIA'S

TOP SECRET/SENSITIVE
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(SA 99)

Chairman KERRY. Well, that is why I wanted the explanation. I, Mr. Secretary, to this moment have not tried to make this document inflammatory. I think you will agree that if one wanted to one could play with it. I simply asked you—

Dr. KISSINGER. No, Mr. Chairman. One could play with it, but not honestly.

Chairman KERRY. Well, I agree. That is why I asked you for your explanation of it. It has not leaked to the press, nobody wrote about this ahead of time, there has been no effort to sabotage you. We just have quietly tried to ask you for your personal explanation. The reason I brought it up at the end is simply I thought it would be unconscionable for us to have this in the public, to try to interpret it, without you personally being able to speak to it. I thought it was more important to do that than not to do it and to have you leave without having had a chance to do it.

Dr. KISSINGER. My problem, Mr. Chairman, is if I leave now, will it be said I fled?

Chairman KERRY. No, Mr. Secretary. We had clear understanding and ground rules. We knew that you would be leaving even earlier than this. You have stayed longer, and we appreciate it enormously.

If I could just say personally I am sympathetic to an understanding of your frustration with this process, notwithstanding the fact that you welcomed this inquiry. I personally believe that it is one of the marvels of our system, maybe an expression of the genius of our political system, that I, who had an opposing position to yours and who spoke out about it, and you who were frustrated by many of those who did, could be sitting here at a table like this 20 years later on behalf of our country looking openly and honestly at this issue.

I think that says an extraordinary amount about us, about you, about the system. I thank you, for this committee and for the Senate process, for being here notwithstanding what I know is a personal reticence in having to deal with all of this at this point in time. So I am very grateful to you, for the Senate and for the American people.

Dr. KISSINGER. Mr. Chairman, I appreciate your comment. I appreciate the way this hearing has been conducted. We were on opposite philosophical sides, but we both have the same objectives, and the real problem is how we can now serve this objective in the future, hopefully on the same side.

Chairman KERRY. I appreciate it.
We stand in recess until Thursday morning.
[Whereupon, at 4:55 p.m., the hearing was adjourned.]

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APPENDIX

HENRY A. KISSINGER

October 22, 1992

Dear Chairman Kerry and Vice Chairman Smith:

This is to respond to your letter to me of October 8 posing three requests for additional information in regard to my testimony of September 22, 1992.

My letter of October 16 to the Chairman has dealt extensively with your first request. As I stated in that letter, various Nixon administration officials reported to Congress and the public throughout 1973 and 1974 about the inadequacy of Hanoi's accounting for our MIAs.

For example, on February 8, Secretary Rogers told the House Foreign Affairs Committee that "we do not regard the Laos list as complete." On February 21, Secretary Rogers told the Senate Foreign Relations Committee that "we continue to be concerned about our men missing or captured in Laos and Cambodia." In his address to the nation on March 29th, President Nixon said that "the provisions of the agreement requiring an accounting for all missing in action in Indochina... have not been complied with." In his press conference on April 12, Roger Shields repeatedly stated that "we have not yet received all information concerning our men in Laos and in Cambodia." On April 20, the U.S. issued a public note to Hanoi regarding violations of the Paris Agreement, stating our particular concern about Hanoi's failure to provide information about our MIAs. In his May 3 Foreign Policy Report to Congress, the President stated that we were determined to secure the fullest possible accounting for the missing. In a press conference on June 13, I stated that we are concerned about the "inadequate accounting for the missing in action." On July 29, we issued a public diplomatic protest to Hanoi regarding North Vietnam's failure to provide any information about our missing.

In my confirmation hearings in September, I stated that we were "extremely dissatisfied" with Hanoi's refusal to provide additional information about our MIAs and discussed at length our efforts to obtain a full accounting, especially for those men known to have been alive in captivity. President Nixon proclaimed January 25, 1974 to be "National MIA Awareness Day" and called upon all Americans to express their commitment to seek a full accounting for the missing.

Administration officials testified repeatedly at hearings conducted by the Senate Foreign Relations Committee and the House Foreign Affairs Committee held between May 1973 and January 1974. In those hearings, which are part of the public record, those officials discussed our government's displeasure with Hanoi's accounting for our MIAs. Accordingly, it cannot be rightly said that Congress was unaware of the problem. Indeed, throughout 1973 and 1974, numerous members of Congress publicly acknowledged that American prisoners might still be alive in Indochina. These remarks may be found in the Congressional record.

In response to request #2, the passage from which I read in my testimony is contained on page 1435 of my memoir, White House Years. The reference is to a message I sent to the President after my December 7, 1972 meeting with Le Duc Tho and before my December 8th meeting. Given the time difference, the message must bear one of those dates. As I indicated in my testimony, Mr. Codinha told me he had seen the actual message, so the date can be easily checked by the committee.

In response to request #3, my reconstruction of our bombing missions is contained in my memoir, Years of Upheaval as follows:

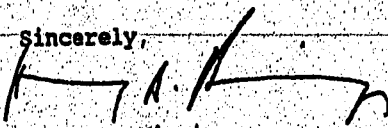
- With respect to Laos, a B-52 strike in late February was authorized in response to a request from Souvanna Phouma in order to enforce a ceasefire there (memoir, p316-317). On April 16-17 U.S. B-52 bombers and fighter planes struck targets in northern Laos (memoir, p325-326).

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-- With respect to Cambodia, that country declared a unilateral ceasefire when the Peace Accords were signed and the US simultaneously stopped air operations (memoir, p341, 347). However, when in February the Khmer Rouge continued hostilities, at the request of the Cambodian government American air operations were resumed and they were continued until the June 29, 1973 legislation required the end of American bombing on August 15, 1973 (memoir, p359).

-- With respect to Vietnam, my recollection is that there was no bombing there during the period you asked about.

Sincerely,



Henry A. Kissinger

HENRY A. KISSINGER

November 2, 1992

BY HAND

Senator John F. Kerry
Chairman, Senate Select
Committee on POW/MIA Affairs
421 Russell Senate Building
Washington, D.C. 20510-2102

Senator Robert C. Smith
Vice Chairman, Senate Select
Committee on POW/MIA Affairs
332 Dirksen Senate Building
Washington, D.C. 20510-2903

Dear Chairman Kerry and Vice Chairman Smith:

I have recently had the opportunity to review the additional written questions dated October 8, 1992 that the Committee sent to my former assistant Winston Lord. Although I am sure that Ambassador Lord will provide you with his own response, I am troubled by both the substance and assumptions of these questions and believe it is imperative in the interest of fairness and completeness to add my own views.

First, as I stated in both my deposition and my testimony, it is entirely inappropriate, and fundamentally unfair, for Committee staff to draw conclusions by extracting single phrases or sentences from the thousands of pages of the negotiating record and backup materials of the Paris negotiations. Words and phrases simply cannot be plucked out of context from the record of four long years of negotiations or out of the historical context of the Vietnam era. The verbal exchanges and the internal deliberative materials for the Paris negotiations were not written as nor ever intended to be legal documents in which every word is carefully chosen to withstand scrutiny decades later. Nor is it justifiable to ask negotiators to look back twenty years, searching their memories to try to justify or explain the choice of words used in the midst of operational negotiations.

I find many of the Committee's "additional" questions to Ambassador Lord all the more troubling because I answered the same or similar questions in my deposition and testimony. For example, I made clear that the U.S. did not change its position

Senator John F. Kerry
 Senator Robert C. Smith
 November 2, 1992
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on the "major issue" of whether U.S. POWs and MIAs in Laos and Cambodia should be covered in the agreements with North Vietnam. The major issue was not whether this point would be covered in any particular agreement but whether it would be covered by any agreement between the parties at all. From beginning to end, U.S. negotiators insisted categorically that the North Vietnamese agree to release and account for all U.S. POWs and MIAs throughout Indochina. To address North Vietnam's insistent position that it did not control its allies in Laos and Cambodia and because we did not want to legitimize North Vietnam's control over the governments of Laos and Cambodia, we ultimately agreed to have the issue covered by verbal assurances and a side understanding. In the end, the U.S. side got what it wanted -- firm guarantees regarding U.S. POWs and MIAs throughout Indochina.

In addition, as I explained to Senator Bob Kerrey during my testimony, it is not true that the side understanding did not cover MIAs in Laos and Cambodia. In our message of October 21, 1973, we stated that we needed an assurance from the North Vietnamese side that "the provision in the general agreement for verification of those U.S. militarymen and civilians considered missing in action will be applied also in Laos and Cambodia." In its reply dated October 22, Hanoi stated that it would "do its utmost to come to an agreement with its allies, with a view of finding a satisfactory solution to the questions with which the United States is concerned." Since the question of accounting for MIAs in Laos and Cambodia was obviously one with which the U.S. was concerned (as the U.S. had stated the previous day), this statement satisfied our request. Hanoi also stated that "the DRV side will carry out, without any change, what it has declared to the U.S. side." Hanoi has never questioned its obligation to account for the missing throughout Indochina. Instead, North Vietnamese officials cynically claimed that the task was difficult and that they were doing all they could. It serves no purpose now to try to give Hanoi an alibi for its failure to perform its obligations, which it is only now reluctantly beginning to fulfill twenty years after the fact.

You have indicated to Ambassador Lord that I stated in my deposition that it was possible that North Vietnamese leaders "misunderstood" the constitutional limitations on our providing reconstruction assistance. In fact, I did not suggest that they misunderstood; that theory was suggested by Committee staff as part of a procedure to which I strongly object. Although I conceded the possibility of a misunderstanding, I also pointed out that Hanoi was well aware that Congress could keep the

Senator John F. Kerry
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Executive branch from doing things it wanted to do. Indeed, Hanoi tried to capitalize on our system of a government of separate branches for propaganda purposes on numerous occasions throughout the Vietnam war. Moreover, as I wrote in my memoirs (Years of Upheaval, p. 41) I not only explained U.S. constitutional limitations to Le Duc Tho at length during the course of the negotiations, I also handed him a 57-page document detailing U.S. constitutional processes during my visit to Hanoi in February 1973. I discussed this question at length in my July 19, 1977 testimony regarding aid to North Vietnam before a Congressional subcommittee chaired by Lester Wolff, and I submitted the document for publication on the public record.¹ Even if Hanoi later found it advantageous to claim that the United States had an unconditional obligation to provide reconstruction assistance, I do not see how they could have thought that at any relevant time.

You have also asked Ambassador Lord whether our conditioning delivery of the Nixon aid letter on Hanoi's delivery of the Laos list strengthened Hanoi's belief that the issues of reconstruction aid and U.S. POWs were linked. As I explained in my deposition, the Committee's question confuses two different issues. We were very careful throughout the course of the negotiation to ensure that there was never a linkage between actual release of our POWs and the actual delivery of reconstruction aid. We did not see a problem, however, in using the highly conditional letter about future aid as leverage to obtain the lists when or shortly after the agreements were signed. Surely no one would suggest that, with hundreds of POW families clamoring for information about their missing men, we should have delivered the Nixon letter without demanding the prisoner list, or that we should not have delivered such a letter. Moreover, I again fail to understand why the Committee is trying so hard to prove a linkage between two issues that, as the Montgomery Committee noted, the North Vietnamese themselves did not claim to be linked until 1975.² We should not try to make excuses for the heartless actions of the North Vietnamese.

¹ U.S. Aid to North Vietnam: Hearing Before the Subcommittee on Asian and Pacific Affairs of the House Committee on International Relations, 95th Cong., 1st Sess. (1977).

² House Select Committee on Missing Persons in Southeast Asia, H.R. Rep. 1764, 94th Cong., 2d Sess. 119 (1976).

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Finally, I am puzzled by the philosophical questions about whether unambiguous agreements are better than agreements with some ambiguities. Of course, unambiguous agreements are better, just as unambiguous legislation is better. But when two or more sides have to reconcile differing positions, they often find that the best they can do is agree on language that one party reads somewhat differently than the other. A key element of legislative or diplomatic statesmanship is to win the other side's approval of language which comes closer to the draftsman's intention than to the other side's, and that will stand up in a court of law or in the court of world public opinion.

I request that this letter be circulated to Members of the Committee and included in the formal record of this Committee's inquiry.

Sincerely,


 Henry A. Kissinger

LETTER FROM JOHN B. BELLINGER, III, WILMER, CUTLER & PICKERING

NOVEMBER 9, 1992.

J. William Codinha, Esquire,
 Chief Counsel,
 Select Committee on POW/MIA Affairs,
 705 Hart Senate Office Building,
 Washington, DC 20510-6500.

Dear Mr. Codinha: Thank you for meeting with me and Lloyd Cutler last Friday. Further to our discussion, I am attaching the following documents, which supplement the materials already provided to the committee in Dr. Kissinger's letters dated October 16, October 22, and November 2, 1992:

1. Excerpts from the Congressional Record in 1973 and 1974. These excerpts show that Members of Congress were fully aware that American POWs might still be alive in Indochina, especially in Laos, and that the Administration continued to list over 50 men as prisoners of war after Operation Homecoming. The excerpts also show that many Members of Congress were themselves frustrated over the inability of the House and Senate to take action on the MIA problem.

2. Excerpts from the 1973-1974 House Foreign Affairs Committee and Senate Foreign Relations Committee hearings on the MIA problem. Roger Shields and Frank Sieverts specifically mentioned the famous discrepancy cases of Hrdlicka and Dodge and acknowledged the possibility that some POWs might still be alive. Moreover, the remarks of the Congressmen and Senators show that they also acknowledged that some men might still be alive. It is simply incorrect to say that Congress and the American people were unaware of the possibility—suggested in the Eagleburger memorandum—that some POWs—might have been kept behind.

3. The House and Senate Committee Reports on H. Con. Res. 271 and S. Con. Res. 81, concurrent resolutions passed in April 1974 expressing the sense of the Congress about the MIA problem. Both resolutions were introduced in mid-1973 and took almost eleven months to pass. The House Report notes that 56 Americans were still listed as POWs as of March 30, 1974 and details the efforts of the Administration to get information about the missing.

4. An excerpt from Roger Shields testimony before the Montgomery Committee on September 23, 1975. Asked by Congressman Gonzalez whether and how many men may still be alive, Shields responded: "... These were men alive at one time. Whether these men are still alive or not is an open question. As for how many men are still alive, it's certainly possible that some men are, but throughout this whole thing we have not been able to put our hands on a missing man who is alive and say he is alive."

5. A copy of General Scowcroft's March 20, 1973 cable to Colonel Guay, to be delivered to Le Duc Tho. The emphasis in the cable is clearly on whether Hanoi was responsible, as a legal matter, for the release of POWs in Laos. The cable mentions as an additional practical matter that the U.S. side continues to be dissatisfied with the small size of the Laos list. This confirms that the dispute in late March 1973 was over whether Hanoi would live up to its obligation to release the nine listed POWs not whether other POWs were being hidden.

SINCERELY,
 JOHN B. BELLINGER, III.

[Additional information submitted by Mr. Kissinger follows:]

February 5, 1973

HOUSE OF REPRESENTATIVES—Monday, February 5, 1973

The House met at 12 o'clock noon. The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The steps of a good man are ordered by the Lord; and he delighteth in his way.—Psalms 37:33.

Almighty God, in fear of whom is the beginning of wisdom and in love for whom is the beginning of life, we come to Thee knowing that in joining ourselves in Thee we find ourselves and we discover that we find our brother also. One in Thee makes us one with our fellow men across all barriers of race, color, and creed. Living with Thee may we become channels through which Thy healing power may flow into our world.

May our loyalties be deep, our sympathies wide, our faith high, and our hope for better days bright. Make us great enough in mind and good enough in spirit to keep ourselves devoted to the best that the best may come to renewed life in us.

In the spirit of Him who being good went about doing good we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 961. An act to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to provide for minimum Federal payments for 4 additional years, and for other purposes;

S. 956. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes;

S. 2. Joint resolution to extend the life of the Commission on Highway Beautification established under section 133 of the Federal-Aid Highway Act of 1970.

The message also announced that the Vice President, pursuant to Public Law 92-500, appointed Mr. Ramsey, Mr. Murren, Mr. Bortnick, Mr. Baker, and Mr. Buckley as members on the part of the Senate, of the National Study Commission under the Federal Water Pollution Control Act Amendments of 1972.

The message also announced that the Vice President, pursuant to Public Resolution 33 of the 73d Congress, appointed Mr. Hovatter to the U.S. Territorial Expansion Memorial Commission in lieu of Mr. Anderson, retired.

The message also announced that the Vice President, pursuant to Public Law 93-491, appointed Mr. Nixon to the American Revolution Bicentennial Commission in lieu of Mr. Harry F. Byrd, Jr., resigned.

The message also announced that the Vice President, pursuant to Public Law 90-259, appointed Mr. Stevens to the National Commission on Fire Prevention and Control in lieu of Mr. Boggs, retired.

The message also announced that the Vice President, pursuant to Public Law 94-944, appointed Mr. Johnson and Mr. Hathaway to the Senate Office Building Commission in lieu of Mr. Jordan of North Carolina and Mr. Gambrell, retired.

AMERICANS MISSING IN LAOS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, it is of the utmost importance that we obtain a more factual accounting of the 311 Americans missing in Laos. The latest list from Paris shows only three of the 311 as prisoners.

Based on past experience, it is fairly accurate to say that of the 311 shot down over Laos, at least 45 percent or well over 130 of these Americans were alive when they hit the ground.

Mr. Speaker, the question is whether or not these men are still being held captive in Laos, North Vietnam, or even China or were they executed or died from starvation after being captured. The families of the missing are entitled to know the fate of their loved ones. I urge officials at the Department of Defense and State Department to press the North Vietnamese, and press them hard, for concrete information on these missing Americans. We are living up to our part of the peace agreement. It is well past time for them to live up to their part.

COSTLINESS OF "COLLEAGUE" CORRESPONDENCE

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, I am compelled to come forth and comment with concern upon the fact that this Congress has already become captured by the compulsion to continually crank out correspondence commencing with "Dear Colleague."

I am a man of caution and, I hope, a man of commonsense, but I cannot contain my contempt for the current, colossal volume of these communications. We have created a carousel beyond compare, and this is a circumstance swiftly becoming beyond the capacity of many to contemplate—to say nothing of simply trying to calculate the carload of colleague letters being carried to our offices each day. If this must continue, perhaps my colleagues will consider converting their comments to a recycled condition and, thus, constitute a case for commendation by conservationists.

I do commend my distinguished colleagues for their characteristic desire to carefully convey their wishes to have co-

sponsors in the creation, cancellation, or continuation of certain legislative programs, but let us commence to exercise control in connection with "Dear Colleague" correspondence.

I conclude that if we truly want to curtail costs, we should come home and closely examine the costliness of Congress.

Mr. GROSS. Mr. Speaker, will my dear colleague yield?

Mr. CARTER. I am happy to yield to the distinguished gentleman from Iowa.

Mr. GROSS. Would it help if they were addressed as "Dear Ms."—whatever that means—or "Dear M." or another of these fancy abbreviations in vogue these days?

Mr. CARTER. I think it might well help. Sometimes I find myself using "Ms." if I am in doubt as to the gender.

TRIBUTE TO VIETNAM WAR DEAD

(Mr. ABDONOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABDONOR. Mr. Speaker, today I am introducing a joint resolution which pays tribute to the great sacrifice made by American fighting men and women in Vietnam who laid down their lives to preserve the ideals of freedom throughout the world.

My bill would provide that the American flag be flown at half staff for one month from February 27th to March 27th. This is a small, but just way to express the sadness of a nation lured from a draining war and weary from the wounds of her lost sons and daughters.

I hope that my colleagues in the House will join with me in supporting this measure as one way we may honor our Vietnam war dead.

IMPOUNDMENT OF FUNDS

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, we have heard a tremendous amount of discussion about impoundment of funds, budgetary cutbacks in funding and actual curtailment of funds for categorical programs. Interestingly enough, we heard from the Democratic Governors a couple of weeks ago, and today, Mr. Speaker, you were visited by Mayor Alioto, the mayor of the city of San Francisco.

The Democratic Governor, Mayor Alioto, and the 11 mayors who are members of the legislative action committee of the U.S. Conference of Mayors are alarmed about impoundment of funds and the public employment program. They are crying "outrage" because President Nixon has broken the promise he made to them in 1969 that general revenue sharing would be in addition to, not a substitute for specific programs for the poor and the minorities who make up so much of central-city populations.

This was a promise that Alioto told

April 6, 1973

that black soldiers have been disproportionately represented on the ground combat frontlines. Because of the racism which pervades our society and the military, blacks were placed in the position of being the shock troops who bore the brunt of the heaviest fighting in Vietnam.

From my experience as a combat infantryman in Korea, I know that it is the frontline troops, predominantly enlisted men, who are most subject to capture by the enemy. Why then have there been so few blacks and so few enlisted men among the returning POW's?

Defense Department figures show that of the 556 prisoners of war returned to date, only 59, or barely 12 percent were enlisted men. Given the fact that in Vietnam, as in every other war, enlisted men in the Armed Forces predominated, especially as ground combat troops, this low percentage of enlisted returnees is incredible.

It seems as if the Defense Department has been concerned only with Air Force officers shot down while bombing North Vietnam and has neglected the fate of those soldiers, mostly foot soldiers, mostly enlisted men, and to a great extent black, who were captured or otherwise disappeared while involved in ground combat in the South.

I am convinced that we cannot in good conscience close the books on the Vietnam war until we receive a full accounting of the fate of our brothers who have been so conveniently forgotten by the U.S. military.

I submit for the attention of my colleagues, a copy of the letter I sent to Secretary Richardson raising these important questions:

April 4, 1973.

Hon. Elliot L. Richardson,
Secretary, Department of Defense,
The Pentagon
Washington, D.C.

Dear Mr. Secretary: As I have watched the return of American prisoners of war from Vietnam I have been struck by the fact that the overwhelming majority of these returning prisoners are officers and that an even greater majority are white.

As a Black American I have asked why there have been so few Black prisoners in the returning group. I have been particularly disturbed by the absence of Black faces in the happy scenes of welcome portrayed on the television sets because during the course of the Vietnam war I was aware of the disproportionate percentage of Blacks who were serving as infantry men in the front lines of combat in the jungles of Vietnam. You will recall I am sure the protest which arose from the Black community over Blacks having to fight and die in disproportionate numbers for a society which refuses to give them full respect and opportunity here at home.

From my experience as a combat infantry man in Korea I know that it is the front line troops, predominantly enlisted men, who are most subject to capture by the enemy. Why then have there been so few Blacks and so few enlisted men among the returning prisoners of war? Figures given me by the Department of Defense show that of the 556 prisoners of war returned to date, only 59, or barely 12%, were enlisted men. Given the fact that in Vietnam, as in every other war, enlisted men in the Armed Forces predominated, especially as ground combat troops, this low percentage of enlisted returnees is incredible.

I have attempted to obtain statistical information from responsible officials in the Department of Defense in response to the questions I have raised, but the information

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I have received does not answer the central question: where are the ground troops, the enlisted men, who were captured by the enemy during more than eight years of involvement by American ground forces in Vietnam?

The impression I have received from public utterances by Department of Defense officials and from the difficulty I have encountered in obtaining the information I have sought is that the Defense Department has been concerned only with white officers who were shot down while on bombing missions over North Vietnam and has neglected the fate of these soldiers, mostly foot soldiers, mostly enlisted men, and to a great extent black, who were captured or otherwise disappeared while involved in ground combat in the South.

Is the Defense Department prepared to say that the Vietnam war was solely an air war and that the only American soldiers taken prisoner by the enemy were these pilots who flew over the North? In Korea ground combat invariably meant the capture of infantry men most of whom were enlisted. We try men most of ground combat in Vietnam and I cannot believe that in this period the enemy was able to capture only 69 enlisted men.

My experience in Korea and the experience of previous wars indicates to me that the full story of our prisoners of war and missing in action has not been told. I therefore call upon you to undertake an immediate investigation of the fate of these soldiers who have not yet been accounted for and who appear to have been conveniently forgotten by the United States military.

Sincerely,
CHARLES B. RANNEY,
Member of Congress.

A PLEA FOR DON LYON AND OTHER AMERICANS MISSING IN SOUTH-EAST ASIA

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Thursday, April 5, 1973

Mr. KEMP. Mr. Speaker, Don Lyon is an American serviceman missing in Laos. He was a college football star and team-mate of mine at Occidental College. He is a close friend and a great American. His wife, Janice, and their children, have sent me a letter which I want brought to the attention of each Member of this Congress. It serves to focus attention on one of the most vital and compelling tasks facing this Nation, that is, the complete and expeditious accounting of Americans still missing in action in Southeast Asia.

A PLEA FOR THE MISSING MEN

Like other American families, we watched with great pride and joy as the first of our Prisoners of War recently were returned to us. The high spirit of these men reflects their awareness that their fellow Americans cared and did not forget them during the years of their captivity.

We are the family of Donovan Lyon, Major USAF, who was shot down in a P-4 aircraft over Laos on his very first mission March 22, 1968. He is one of more than 300 Americans missing in action in Laos. To us he is more than a statistic. He is a fine person who deserves to have his fate known. As the wife of an Air Force pilot, I know that sacrifices of young lives are sometimes required in combat. We can understand and accept that. It is another matter, however, to never know what had happened to someone you love.

The father, Don Lyon, has a son who is only 17 years old. He is a fine young man in Laos. They give him as to how many about 10-12 other men who are about the same age. They are all missing in action. Don Lyon is a fine person who deserves to have his fate known. As the wife of an Air Force pilot, I know that sacrifices of young lives are sometimes required in combat. We can understand and accept that. It is another matter, however, to never know what had happened to someone you love.

Past response by the American people in supporting our Prisoners of War and Missing in Action men has been sincere and outstanding. Now we ask for help again—the help that only you can give. Please walk with us an extra mile to help these missing brothers of our Prisoners of War.

A practical and realistic way in which you can help is to send a short note or write your individual U.S. Congressman and Senator, as well as to President Nixon. Ask them to continue their efforts in searching for the whereabouts and/or condition of these missing in action men.

The children and I are hoping that you will help us.

Sincerely,
JANICE LYON,
Suzanne, age 13,
Scott, age 10,
Donna, age 8.

As Members of Congress, and as Americans, we must continue to insist on a full and complete accounting of all our missing in action. For the sake of our collective and individual conscience, we cannot afford to do less.

For those of us in Congress, or for the administration to even consider supplying reconstruction aid to North Vietnam, without a good faith effort by the North Vietnamese in helping account for our missing, would be a great tragedy; and one for which I will not be responsible.

I ask my colleagues and the administration to step up the pressure on North Vietnam to aid us in this humanitarian task.

FOOD PRICES IN PERSPECTIVE

HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES
Thursday, April 5, 1973

Mr. HANSEN of Idaho. Mr. Speaker, because of the public attention that has recently been centered on food prices, it is helpful to put the matter in proper perspective by comparing changes in the price of food and services over the past several years. While we have seen sharp increases in the price of some food items recently, the fact is that over the past 20 years increases in food prices have been far less than the cost of almost everything else that makes up the cost of living. Price rises in housing, transportation, clothing, medical services, home furnishings, and many other items have far outstripped the increases in the cost of food. Through the low food prices that have generally prevailed over the last two decades, the American farmer has been subsidizing the rest of the population. Now he is finally getting a fair break, although overall farm prices are still less than parity.

Mr. Speaker, Jean Explin, an enterprising reporter for the Blackfoot, Idaho, News has made an excellent analysis of

May 21, 1973

are people of very different backgrounds, tastes and views hold so close together. It may also explain why a person thinks not twice but many times before applying. But in some cases, it may explain why he applies at all.

Dear Ira and Sheila, you may use my letter in every possible way. This letter is written without censorship. You can send over every correspondence for me using this channel. My address will be written on the envelope you receive. This is a very safe and tested channel. I have finished my monograph (a big book) "Two-phase down in chemical engineering". I am going to publish it abroad. It is my only hope to gain money in my very straitened circumstances. My pension is the very way to send myself and my family to the grave. Nevertheless I understand things very well and look danger in the face. In my status there is nothing to lose. American Jews always made "noise" about Russian Jews. It is very, very important for us! My writings will support this situation. Thanks to the fact that Americans struggle for us I can write you this letter. The authorities have now prepared a "nice" place in prison for me but they couldn't realize their "Good intention"—the international Jewish movement is a rock against it, every anti-Semitic enterprise will smash to smithereens.

Once more, I am much obliged for your concern. Dear Ira and Sheila!

With love

YOUR DAVID ARZEL

WHAT ABOUT THE MIA'S?

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1973

Mr. LANDGREBE. Mr. Speaker, now that the initial jubilation over the return of our prisoners of war from Vietnam has subsided, I feel compelled to comment that for the families of over 1,300 who served in the war in Vietnam there is yet no jubilation, no peace of mind, and no answer to their questions of "Where are our loved ones?"

I speak, of course, of the families of those who were officially listed as missing in action. My concern for these brave Americans was heightened by a recent letter from one of my constituents. I believe her letter can jar us all back to the reality of war and the job that remains unfinished.

I call on my colleagues and all Americans to remember the missing in action, and I caution those who worked so hard for the release of the POW's not to be satisfied with the job they have done until all MIA's are also accounted for—because for the families of these men, the war goes on and there is not yet complete "peace with honor."

I submit the letter for the Record:

CHATTANOOGA, TENN.
DEAR SIR: I have but one urgent request to make of you at this time. Please do not forget our over-3,000 men still "missing-in-action." The knowledge of what has happened to these men should top every other priority. Are they dead? Is there a glimmer of a chance that even a few have survived? Where are they? I urge you to speak out on their behalf and for the sake of their waiting families. Please do not let the Watergate

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affair—tragic as it is—overshadow these Americans lost in behalf of their country. Help them please. Thank you.

Sincerely,

JOSHUA M. RAY

REVISED SOCIAL SERVICES REGULATIONS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 21, 1973

Mr. EILBERG. Mr. Speaker, last Friday I presented remarks to the Senate Committee on Finance, which has been holding hearings on the Department of Health, Education, and Welfare's recently revised Social Services Regulations. I include this statement to be inserted in the Record.

New Social Service Regulations Should Be Reported

(Statement by Congressman Joshua Eilberg)

Mr. Chairman, I appreciate this opportunity to express my concern over an opposition to the final social service regulations which govern the social service programs under the Social Security Act.

The new regulations were first proposed on February 16, 1973. The people immediately voiced their disapproval of the proposed changes. NEW received over 200,000 letters of protest and Congressional offices—my own included—were visited by hundreds of people who were to be tragically affected by the new rules.

As a result, legislation was introduced in both houses of Congress to prevent the implementation of the new regulations. After it became obvious that these regulations were not only unacceptable but a misrepresentation of the legislative mandate for social services set forth in the Social Security Act, the Administration went back to the drawing board. The result appeared on May 1, 1973 with the issuance of the final draft of the social service regulations.

The revised regulations do contain modifications which reflect some awareness of the objections to the original proposal, but in most instances they still create more problems than they solve.

In some vital areas, however, no relief from the misguided misdeeds of those who are butchering our social service programs is proposed at all. A case in point is the Community Legal Services program. It is estimated that over 40,000 Pennsylvanians were assisted in various actions this past year through the efforts of 107 young attorneys working in this project. Community Legal Service's vital importance is more fully appreciated when it is kept in mind that it has been the means for many of the disadvantaged in American society to be shown that there is something in the system for them. We have let the poor, the elderly, and the minorities know that justice can be a reality and not merely a pious sounding abstraction. To eliminate this new hope would be tragic.

I am inserting at this point in my statement, Mr. Chairman, a letter I have received from an old friend who is the current Chancellor of the Philadelphia Bar Association. He forcefully describes the community wide benefit accruing from the work of the Community Legal Services program in my native city. I commend Mr. Bongiovanni's comments to the members of the Committee and echo his call that this fine program be maintained:

PHILADELPHIA BAR ASSOCIATION,
Philadelphia, Pa., May 16, 1973.
Hon. JOSHUA EILBERG,
House of Representatives,
Washington, D.C.

DEAR JOSH: The new social service regulations promulgated by the U.S. Department of Health, Education and Welfare really encapsulate our Community Legal Services, Inc. by severely limiting permissible legal services to "service in solving legal problems of eligible individuals to the extent necessary to obtain or retain employment." We need help to have these regulations changed immediately.

As you and I are well aware, we are fighting for survival in the cities and the survival of the cities is threatened by many of the disadvantaged who feel, sometimes with justification, that our institutions do not provide any means to redress their grievances. As a result of a good deal of missionary work, we are beginning to persuade some of these people that our institutions do provide the means to redress their grievances and we do this by indeed providing the means. The means are C.L.S. which is only possible due to the generous financial support of the federal and state government and, more importantly, the selfless dedication of so many of our younger lawyers who have been working in this program, not only with zeal but with real skill. The new regulations bring down an iron curtain on the whole thing. This comes at a time when the main source of funding for legal services through the Office of Economic Opportunity is gravely threatened with extinction. The uncertainty surrounding the future of legal services and the administrative hassles which the Office of Legal Services in O.E.O. are thrusting on programs in the field, caused the effective continuation of C.L.S. in Philadelphia to be in immediate jeopardy.

We need your help now.

Sincerely,

JOSEPH N. BONGIOVANNI, JR.
In the case of eligibility for day-care center services, the people who need this type of help, perhaps more than any other group will be deprived of its services.

In my district, in Northeast Philadelphia, there are a large number of families in which both parents work. Many of these families have young children who must be cared for during the day, but the parents cannot afford to send them to private day-care centers or to nursery schools.

Up to now, these parents have placed their children in Federally funded day-care centers. This situation is perfectly proper, both for the parents and the government. Both parents hold jobs and they pay taxes. They do not act as a drain on the community, they contribute to it. In return, the government plays its proper role by supplying them with a necessary service.

However, the new regulations will force many of these people, perhaps thousands in Philadelphia alone, to take their children out of the day-care centers. The result will be that one parent will have to stop working and the family's income will be lowered by a drastic amount.

The regulations limit free day care to the children of families with an income which is no higher than 150 percent of the state's assistance payment standard. They also provide for a sliding schedule of fees up to 233 1/3 percent of that standard. In Pennsylvania these rules will limit free day-care service to families with an annual income of no more than \$5,634 and the sliding fee basis for a family of four with an income of up to \$8,794 a year.

According to Pennsylvania State Department of Welfare, the average cost of maintaining a child in many day-care centers in Philadelphia exceeds \$2,000 a year.

This income restriction, as bad as it is,

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and systems analyst, a photographer, a journalist or a linguist interpreter.

The sky's the limit in fact. If the sky is her bag, she may be an air traffic controller or a weather forecaster. If she likes to blow her own horn, she can even be a member of the Women's Army Corps Band. What is her future? In all likelihood, the young lady does not intend to make the Army a lifelong career. Like many of her predecessors, she may marry and have a home of her own while still in the service. When she does make the transition back to civilian life—whether as a wife or to pursue a career—she will do so as a mature, poised and self-assured young lady.

CONGRESSMAN HOWARD HAILS
DOMINICK V. DANIELS, CONGRESS-
SIONAL CHAMPION OF SENIOR
CITIZENS

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1973

Mr. HOWARD. Mr. Speaker, during my five terms in the House I cannot recall any Member of this House who has worked harder for senior citizens than our friend and colleague, the gentleman from New Jersey's 14th District (Mr. DOMINICK V. DANIELS). Recently the respected Joseph McCaffrey, devoted his nightly radio broadcast on radio station WMAJ, Washington, to Mr. DANIELS and his "Bill of Rights for Older Americans" and other legislation which the able Hudson County, N.J., Congressman has pushed through the House.

Mr. Speaker, I would like at this point to insert Mr. McCaffrey's broadcast into the Record so that all Members of the House may have an opportunity to read what one of the most respected members of the electronic press fraternity had to say about our good friend and colleague, Mr. DANIELS.

"The broadcast follows:

BILL OF RIGHTS FOR OLDER AMERICANS

(By Dominick V. Daniels)

The Gentleman from New Jersey, Dominick V. Daniels, has proposed a "Bill of Rights for Older Americans."

This is it:

The Right to Health: to provide full access to medical care in America.

The Right to Live with Dignity at a Decent Standard of Living: adequate Social Security benefits that recognize increased costs of living.

The Right to Work: opportunities to continue in useful and constructive endeavors in private industry or community service.

The Right to Travel: local and national transportation services that recognize the needs of older Americans, as well as reduced fares.

The Right to a Secure Pension: passage of the Daniels' Bill to provide vested and portable pensions and to insure that funds are available to provide annuities.

The Right to Shelter: elimination of discriminatory tax systems which burden older persons on fixed incomes and the development of additional low and moderate income housing designed for older persons.

The Right to Be Safe at Home and on the Streets: an end to law-and-order rhetoric and a new emphasis on reducing robberies, muggings, assaults and rapes perpetrated against all Americans. The beginning

of real support for police by providing modern training, salaries and equipment, as well as increased manpower to put law enforcement where crimes are committed—on the street and in the housing developments.

Dominick Daniels has been hailed on the House floor by the Speaker, Carl Albert, for his work as chairman of the Select Subcommittee on Education where he was responsible for the enactment of a major measure into law. Said the Speaker: "Though the number is impressive, the fact that this was done without a dissenting vote in Subcommittee, in full Committee and on the House floor is amazing. Not content with these accomplishments, he continued to be instrumental in guiding four bills into law in the next Congress."

Dominick Daniels is also an innovator. I have seen him get action in areas that had remained untouched for many years. The Construction Safety Act was vitally needed in an industry infamous for its on-the-job fatalities, but it had previously failed to pass because of bitter opposition between the trade unions and the construction industry.

Under Daniels' leadership, it became the strongest safety law in the nation, and only months later, he went on through numerous drafts to write the Basic Senate and House Occupational Health Bill, which became the most comprehensive safety law in history.

Dom Daniels is the man who helped push through the Youth Conservation Corps, despite the opposition of the Administration.

So speaks the Speaker of the House in praise of New Jersey's Dominick Daniels. An attorney since his first victory at the polls in 1958, he not only serves on the Education and Labor Committee but also is a key ranking member of the Post Office-Civil Service Committee.

EXTENSIONS OF REMARKS

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RADIO STATION WKRS AND LAKE
COUNTY BAR ASSOCIATION OB-
SERVE LAW WEEK

HON. ROBERT MCCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1973

Mr. MCCLORY. Mr. Speaker, a great variety of activities are undertaken during the observance of Law Week, designed to emphasize the underlying principle of our society that we are indeed a nation of laws—not men.

A most significant innovative program was undertaken during Law Week 1973—May 1 to 7—by radio station WKRS at Waukegan, Ill., in cooperation with the Lake County Bar Association, which contributed to widespread public information on the subject of the law-making process of our legislative bodies.

Under the direction of Larry Leonard, director of public affairs of WKRS, representatives of 15 area high schools served as members of the House of Representatives of the Illinois General Assembly—meeting in the chambers of the Lake County Board. The State Senate consisted of adult listeners who participated in the lawmaking process by telephone.

Mr. Speaker, while most of the issues which were discussed by means of the radio, television, and electronic support facilities were appropriate for a State legislative body, a number of the legislative proposals had direct national significance suggesting the need for attention by the Congress.

At their request, I am including excerpts of their letter to me in the Record, in order that all Members of the House

Mr. Speaker, one such measure which attracted wide attention would have restricted the importation of foreign handguns, including components which might be assembled in this country—a measure having a direct connection with the legislation dealing with the so-called Saturday night special.

Another measure called for the elimination of the electoral college—and the popular election of the President—a proposal which I have sponsored in the past and in which I have a continuing interest.

Mr. Speaker, I am informed that this program described as an electronic general assembly attracted wide interest among the listeners of station WKRS, and was most informative in describing the legislative process which operates in our State legislative bodies and in the Congress.

Mr. Speaker, I extend my congratulations to my friends, Fritz Sorenson, vice president and general manager of WKRS, and to the station's public affairs director, Larry Leonard—also well known for his adroit handling of the popular talk program, "Viewpoint." I am confident that my colleagues and the nation as a whole can benefit from this successful experience in behalf of Law Week, 1973, and in support of our great national institutions of representative government and of free speech.

FORGOTTEN AMERICANS COMMITTEE OF KANSAS, INC., POINT-UP COMPLAINTS OF MIA'S INVESTIGATIONS

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 23, 1973

Mr. SHRIVER. Mr. Speaker, there is continuing concern among POW and MIA families regarding the efforts of our Government to secure a meaningful investigation and full accounting of those Americans who remain Missing in Action in Southeast Asia, particularly Laos and Cambodia. Some Americans still may be Prisoners of War in Laos and Cambodia.

The Forgotten Americans Committee of Kansas, Inc., has been one of the organizations in the forefront of the prolonged efforts to alert the public to the POW/MIA situation in Southeast Asia. I recently received a letter signed by Mrs. Ann Howes, president, and Miss Maureen Smith, vice president, of PACK, regarding the situation as it relates to the POW/MIA investigation in Laos and Cambodia. They have voiced their personal concerns regarding recent actions by the Congress which may have a bearing on the success of the ongoing investigation.

At their request, I am including excerpts of their letter to me in the Record, in order that all Members of the House

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may have the benefit of the views of this important Kansas organization:
FORGOTTEN AMERICAN COMMITTEE
OF KANSAS, INC.

Wichita, Kans., May 17, 1973.

DEAR CONGRESSMAN SHIELDS: As a POW/MIA organization and a MIA family member, we have been sincerely upset by the recent floor debates and voting to stop funds and totally sever all contact with the conflict in Laos and Cambodia. Dr. Roger Shields, of the Department of Defense POW/MIA Task Force, has told us that both the House and Senate have been informed that a Prisoner of War and Missing in Action situation still exists in Laos and Cambodia, and that pulling out now would mean the end of any chance to get back our American POW's and get an accounting of the Missing in these countries.

Immediately after the January '73 Cease-fire, the DOD listed 7 civilians and 6 military Prisoners in Laos, 311 military Missing in Laos, 8 Journalists and 28 military Prisoners in Cambodia, 25 military Missing in Cambodia, and 81 known Prisoners still unaccounted for in Vietnam. Four of the Laos military POW's were released, 3 military men have been added to the MIA/Cambodia count since the Cease-fire, and some of the 81 unaccounted-for POW's have been reclassified to KIA as a result of POW debriefings.

However, in Laos and Cambodia, we are still talking about 4 civilian and 20 to 70 military American Prisoners in Laos, 311 military Missing in Laos, 3 Journalist POW's in Cambodia, 25 military Missing there, and the very real probability of more than 60 prisoners from Vietnam having been moved into Laos or Cambodia. Gentlemen, we are talking about the lives and accounting of almost 500 Americans... These include 12 Kansans and friend—2 Kansans are Prisoners in Laos, 8 are Missing there, 1 is a Prisoner in Cambodia, and 1 is Missing in Cambodia. Positive information has recently indicated that 2 of the 9 Kansas POW's are alive. We're certain that each of you could confer with the National League of Families representative from your state and find that you, too, have constituents who must not be forgotten.

Our POW/MIA negotiators for the ICCS and the JCRC supposedly have the support of a signed Cease-fire in Vietnam; yet they are having problems getting any cooperation from the Vietnamese concerning an accounting of the missing Prisoners and clarification on the MIAs. If you, as legislators, force a stoppage of all involvement in Laos and Cambodia, the Pathet Lao and Khmer Rouge will NOT be grateful—they will be powerful instead of daily negotiations for our POW/MIAs with their representatives in North

Vietnam, they will be in a position to charge us more than a mere bombing halt for the most meager information about our men. Who will be paying the price? You? Our government? Or the Prisoners not returned, the Missing not found, and their families?

We recently received a letter from the mother of a Kansas Journalist who is known to be alive and POW in Cambodia as recently as April 1973—almost a year after capture. She voiced the fears that so many family members feel, so we quote—"We appreciate, so much, your concern. I'm beginning to feel like a few people in Washington don't think it is worth the effort and expense to get the rest of the men out of there. I can't help boiling inside when I hear one of them come up with such a statement."

We want her to be wrong, but only you can prove her wrong by your actions. Dr. Shields and Frank Selverus assured us there would be no rug-sweeping of our men. We fear your solution will result in the sacrifice of our Prisoners, our Missing, and the right of their families to ever know the fate of their loved ones.

Sincerely,

ANN HOWE,

President,
MAUREEN BARRIS,
Vice President.

HOUSE OF REPRESENTATIVES—Thursday, May 24, 1973

The House met at 11 o'clock a.m.
The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Watch ye, stand fast in the faith, quill ye like men, be strong.—1 Corinthians 16: 13.

Almighty God, who guided our fathers to build on these shores a country of free people and who didst put into their minds a dream that this land may become one nation with liberty and justice for all, move Thou within our hearts that we may continue to fulfill this goal in our day.

We come again to our national day of remembrance when we call to mind those who have given their lives for our country. Inspired by their devotion and challenged by their dedication may we give ourselves afresh to the cause for which they gave the last full measure of devotion that a government of the people, by the people, and for the people may not perish from the earth.

Bless the family of our beloved colleague, WILLIAM O. MILLIS, who so suddenly has left us. Comfort them with Thy spirit and strengthen them for the days that lie ahead.
In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 251. An act for the relief of Frank P. Muto, Alphonse A. Muto, Arthur E. Scott, and P. Clyde Wilkinson;

S. 1384. An act to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Glen Canyon National Recreation Area, in the States of Arizona and Utah, and for other purposes;

S. 1808. An act to apportion funds for the National System of Interstate and Defense Highways and to authorize funds in accordance with title 23, United States Code, for fiscal year 1974, and for other purposes; and

S.J. Res. 28. Joint resolution to authorize and request the President to issue a proclamation designating the fourth Sunday in September of each year as "National Next Door Neighbor Day."

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE AND SPEAKER TO SIGN BILLS AND JOINT RESOLUTIONS DULY PASSED, NOTWITHSTANDING ADJOURNMENT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, May 29, 1973, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until May 29, 1973, the Speaker be authorized to accept resignations and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY OF NEXT WEEK

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday, May 30, 1973.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

LEGISLATIVE PROGRAM

Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of asking the distinguished majority leader the program for next week.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I am happy to yield to the gentleman from Massachusetts.

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challenging the administration for changing its argument in midstream, declined to tamper with an order instructing the administration to turn highway construction funds over to Missouri officials.

Presided by Judge Gerhard O'Neill of U.S. District Court here, the administration was forced to begin spending \$25 million appropriated to spur college enrollments by Vietnam veterans. The money had been impounded after Congress refused to withdraw its appropriation of the funds.

Judge Robert R. Merhige Jr. of U.S. District Court in Richmond, calling impoundment a "flagrant abuse of executive discretion," ruled that the administration must immediately release Virginia's share of impounded water pollution control funds.

The political or ideological persuasion of the federal judge involved in an impoundment case apparently makes little difference. Both liberals and conservatives have ruled against impoundment.

O'Neill and Merhige, for instance, are two of the most liberal judges in the federal judiciary. But Northrop and the judges on the 4th U.S. Court of Appeals are among the most conservative.

For the administration, things may soon get worse. At least a dozen impoundment suits are now pending and others are expected to be filed by state and local governments whose hopes have been buoyed by the recent rulings.

In a suit filed in U.S. District Court here on Friday, Pennsylvania and the cities of Philadelphia and Pittsburgh are seeking \$380 million in impounded education funds.

The other pending impoundment suits involve funds for highway construction, water pollution control, education, environmental assistance, rural electrification and land grant colleges.

The administration has already appealed what is perhaps its worst impoundment defeat in court. That was the ruling by Judge Oliver Guash of U.S. District Court here that the administration must release \$6 billion in water pollution control money.

The Guash ruling has been challenged before the U.S. Court of Appeals. The Maryland case, once it is appealed by the administration, will be heard quickly by the 4th U.S. Court of Appeals, with a ruling expected late this summer.

[From the New York Times, June 10, 1973]

MISFEASANCE DISASTERS

(By J. J. PICKLES)

WASHINGTON.—During recent debate over Presidential authority to impound funds, constant repetition has almost made fact of the myth that our third President began the practice long ago. The charge is that President Jefferson refused to build fifteen gunboats to patrol the Mississippi River.

A portion, however, of his fourth annual message to the Congress (Nov. 8, 1804) reads: "The act of Congress of February 28th, 1803, for building and employing a number of gunboats, is now in a course of execution to the extent there provided for."

Similarly, research proves the undoing of nearly all the impoundment precedents paraded about these days.

In his comments (Op-Ed page May 25), Senator Hugh Scott proposed a case for impoundment which he purported to base on historical precedent, including the Jefferson incident, on constitutional and legislative authority, on common sense and on judicial ruling, or the lack of it, in this field. I believe a closer reading of the history books and the facts of the matter show none of his assertions provide the carte blanche authority for impounding of funds which the present administration assumes.

When one reads beyond President Jefferson's 1803 message—he said he was deferring

funds for building fifteen gunboats—and proceeds to his 1804 message, one finds that he deferred the money—not impound it—was precisely what he did.

A further reading into the history of the period sheds more light on the situation. Building the gunboats was Jefferson's idea in the first place—he preferred them to expensive forts and ships of war to defend our coastal cities. And he originally proposed to build 250 such gunboats. But the first ones built proved unwieldy, and changes in the international situation brought about by the purchase of the Louisiana territory gave the frugal Jefferson time to wait until more usable gunboats could be designed.

What is really important in the Jefferson gunboat incident is that he obviously felt a strong duty to inform the Congress when and why he was deferring the money and to inform the Congress again in 1804 that he had carried out its law.

Between President Jefferson and the twentieth century, only one other so-called impoundment precedent has been found—that of President Grant withholding some that he harbor funds Aug. 11, 1876. This case is most notable for its isolation. Most impoundments were so isolated and so sporadic as to weigh very little in the history of Federal spending.

Senator Scott is correct that the original theory of impoundment was rooted in common sense. If a project or program can be executed for less than the amount Congress appropriated, then no legislator, no citizen, no President would want to spend that extra money.

In 1941, President Roosevelt announced that because of the war emergency he was not going to allocate funds for any water resource project that did not have an important national defense value. In this, the only case of massive impoundments until the present times, Congressional outcry was massive and bitter.

Concern by both the executive and legislative branches over the legality of wartime impoundments under President Roosevelt resulted in the Hoover Commission of 1949 and a recommendation that further legislation be enacted to grant the President authority "to reduce expenditures under appropriations, if the purposes intended by the Congress are carried out." Again it was emphasized the President was to have authority to save money if and only if he were still carrying out the mandates of the Congress.

The Hoover Commission report resulted in the 1951 amendments to the Anti-Deficiency Act. The language of the amendments was vague and easily stretched to read as control of the rate or tempo of program implementation. And it is only one step from controlling the rate of program implementation to controlling the achievement of the program at all, which is where we stand today.

The Administration seems to assume when the word "management" was added to the budget office this gave them clear authority to manage Federal funding even if it meant ignoring Congressional directions. A simple reading of the reorganization act and Executive order setting up the new Office of Management and Budget shows there is no such authority included there.

We have today the choice, as we did in 1951, of enacting new legislation. In that legislation we can legalize the new form of policy impoundments we see today or we can put the impoundment authority back into a historical perspective, with the Congress clearly in charge.

The decision which path we take is in the hands of the Congress and the courts.

MIAs

Mr. THURMOND. Mr. President, the signing of the January 27 cease-fire

agreements evoked deep emotions from a war-weary Nation. We were grateful when the last remaining ground forces were brought home from South Vietnam. We breathed a long sigh of relief when the POW's returned and we shared in the joy as they were reunited with their families.

Our happiness and sense of accomplishment, however, were tempered by the knowledge that some 1,300 American men are still listed as missing in action. Because of the agreements, which explicitly provide for expedient and accurate accounting of the MIAs, we still had high hopes of determining the fate of the brave men. It has been almost 8 months now, and our efforts have been constantly thwarted by the Communists.

The families and friends of the MIA's remain in doubt. They are living on the fringes of hope—still clinging to the slim possibility that their loved ones have survived. With this hope, however, is the dread fear that they might not be so fortunate. The overriding concern of the MIA families is to obtain concrete information on what has happened to the men. I have heard many relatives say they could take bad news, but the real mental anguish is not knowing.

Mr. President, many Americans are being cruelly tormented by the delay tactics being employed by the Communists. The agreements set up sophisticated machinery to obtain information about American MIA's and the administration is doing everything possible in this regard. We must have cooperation from the other side, however, if our efforts are to be fruitful.

It is impossible for the Communists to dodge their responsibilities in this matter. The agreement signed January 27 is unequivocal. It says:

"The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action."

Mr. President, the Joint Casualty Resolution Center and the Four-Power Joint Military Team, set up by the agreements to account for MIA's, have done the best they can under the circumstances. They have been kept out of many areas where many men were thought to be missing. They are being kept out of Communist-held territories in Laos, where 300 Americans are missing, and Cambodia, where at least 20 men were lost.

Furthermore the Communists will not permit National Red Cross teams to inspect places where American prisoners were held. They have not yet made arrangements to return the bodies of 55 men who died in captivity. I repeat again, Mr. President, this is contrary to their written pledges.

Even with full cooperation from the Communists, the task before the inspection teams will be difficult. There are some 1,300 men still unaccounted for in Southeast Asia and 1,100 others who have been declared officially dead but whose

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remains have not been recovered. More than 1,900 of the composite 2,400 in these two categories are the results of air crashes. There are approximately 1,000 such crash sites involving over 50 different models of aircraft. These sites are scattered throughout rugged terrain, including uninhabited jungles and mountains. Some 80 percent of these sites are in militarily contested areas or areas controlled by the other side. Unexploded booby traps and hostile guerrillas present danger to the teams.

President Nixon has undertaken an historic effort to establish better relations with all nations. Communist countries included. General Secretary Brezhnev is in Washington this week in intensive negotiations which, hopefully, will further this goal. Before meaningful relations can be established, there must exist mutual trust between countries. This would be an opportune time for the Communists to prove that they can be trusted by helping us in our search for the MIA's.

EXCESS PROPERTY PROGRAM

Mr. EAGLETON. Mr. President, last year the General Services Administration announced its intention to terminate the eligibility of Federal grantees for excess property and the support functions of the Federal Government. When the proposed amendment to the Federal Property Management Regulation was published in the Federal Register, interested parties were invited to comment on the proposal. Because of the large number of comments received by GSA, the deadline for comments was extended for an additional 30 days, until July 31, 1972.

Despite this extension and despite the fact that comments on the regulation changes were still being received, the Department of Health, Education, and Welfare unilaterally terminated its excess property program for HEW grantees on July 14, 1972.

After careful review, the General Services Administration determined to continue its policy on acquisition and use of excess property pending completion of a study to determine the need for modification of the program. Thus, other Federal agencies are still operating under the excess property program, but as of July 14, 1972, no applications for excess property by grantees are being processed by HEW.

The HEW decision to terminate the program is contrary to existing Federal regulations. It violates the expressed intent of GSA to give further study to the merits of the program.

Mr. President, I find it ironic that at a time when the administration is concerned about inflation and fiscal responsibility, it is eliminating one of the most effective and most justifiable cost-reducing programs of the Federal Government in one of its largest agencies.

In my own State of Missouri, institutions of higher education have received millions of dollars' worth of valuable property—and I emphasize that is property the Federal Government no longer has use for—since the program began. The machinery and equipment acquired under the program have made it possible to carry on instructional and re-

search programs with sophisticated materials. Strict budgetary limitations prevent these institutions from paying market prices for such equipment. Without the excess property program, the schools are unlikely to be able to obtain the kind of equipment which has so significantly enriched their programs in the past.

I believe the saving to the taxpayers through the excess property program is great. The alternative to this program is to greatly increase expenditures for higher education so that institutions can afford to pay market prices for the equipment needed to preserve the quality of instructional and research programs.

Mr. President, an excellent report on this subject entitled "Current Status of the Missouri Excess Property Program" has been prepared by the Missouri Commission on Higher Education. I ask unanimous consent that the full text of this report be printed at the end of my statement.

There being no objection, the report was ordered to be printed in the Record, as follows:

CURRENT STATUS OF THE MISSOURI EXCESS PROPERTY PROGRAM

DEVELOPMENT OF THE MISSOURI EXCESS PROPERTY PROGRAM

The Missouri Commission on Higher Education learned in mid-1971 that excess Federal property could be transferred from holding agencies to grantees to support federal grant objectives for scientific research and for educational programs. The possibility of substantial benefit to programs at Missouri institutions of higher education warranted the establishment of a formal program to encourage the utilization of excess property. The initial funding of the program was through voluntary contributions from public and private institutions.

In December, 1971, two full-time staff officers were hired. From the outset, the concern of transferring Federal property was apparent from insuring adherence to Federal regulations, to establishing property accountability systems, to establishing credentials at installations throughout the country. Locating sources of property was a major task in the initial months of the program. Nevertheless, over \$5 million in excess property was transferred during the first year.

Thirty-nine institutions of higher education in the state had grants which could be supported by the transfer of excess property. Each of these submitted want lists, which were then consolidated. In keeping with Federal requirements, requests were carefully reviewed to insure that equipment and supplies to be transferred were directly applicable to a current and open Federal grant. Some institutions which received excess property chose not to participate in the Missouri Excess Property Program. Comments in this report refer only to the experience of institutions of higher education participating in the program.

Prior to suspension of Department of Health, Education, and Welfare participation, grants by the Office of Education under Titles I and II (facilities) and Title VII (equipment) were supported. Thereafter, the principal grants supported have been those of the National Science Foundation. Occasionally transfers of property are also made in support of grants and contracts from the Law Enforcement Assistance Administration, the Department of Commerce, the National Aeronautics and Space Administration, the Bureau of Mines, and Department of Defense agencies.

By mid-1972, many additional schools were

eligible for support of newly awarded grants. The initial establishment of a sound program had been achieved. Unfortunately, it was just at this time that the Department of Health, Education, and Welfare decided to suspend participation.

IMPACT OF HEW SUSPENSION OF PARTICIPATION

On July 14, 1972, the Department of Health, Education, and Welfare announced that HEW approval of excess property transfers would be suspended until completion of an interdepartmental study of such transfers. Despite General Services Administration recommendations to the contrary, and despite thousands of letters of protest from grantees, the decision has remained in effect.

The immediate results were quite damaging to Missouri grantees. Only 14 institutions remained eligible for support under National Science Foundation and other Federal grants. Had HEW participation continued, over 26 Missouri institutions would have been eligible for support of Title VII and Title I grants.

In the seven months prior to July 14, 1972, excess property worth \$1.3 million was transferred to 25 of the 39 eligible Missouri institutions. In the ten months after that date, \$2.4 million in excess property has been transferred to 16 Missouri institutions, mostly in support of National Science Foundation grants. Requests for support of research grants and contracts from other agencies have been increasing over the past two months.

Before the cutoff date, over 60 percent of transfers were in support of Office of Education grants. Excess property transfers in support of Office of Education grants were often of benefit to entire colleges or programs. By comparison, National Science Foundation grants directly benefit a narrower group of programs and far fewer students. The provision of specialized equipment for scientific research has, of course, great national significance.

The impact of Office of Education grants was greatly enhanced by the utilization of excess Federal property. Title VII equipment grant funds of \$500,000 were supplemented by \$640,000 in excess property. Excess Property support of Title I and II facilities grants was also significant, amounting to about \$400,000. Cost overruns in building projects have, in practice, been met in part by utilizing funds intended for equipping the new facilities, so that few new buildings are equipped as planned in the initial grant. Excess property could have supplied much of the equipment deficit, thus helping meet the Federal objectives of the projects.

The total negative impact cannot be comprehended from the dollar amounts involved. Many new sources of property had just been located and a broad range of grant programs was just becoming eligible for support when HEW participation was suspended. The negative impact of the decision was heightened by the fact that the General Services Administration and HEW officials had been encouraging grantees to make the utilization of excess property an integral part of their planning, particularly for equipment grants, right up to the announcement date. Furthermore, in view of the stringent controls on educational budgets at the Federal and state level, in an inflationary period, cancellation of the excess property program at this point seems to be an ill-timed decision.

ANALYSIS OF THE REASONS FOR HEW SUSPENSION

Replies to inquiries concerning the suspension of participation have generally referred to an Office of Management and Budget position paper dated July 19, 1972, on "Use of Federal Supply Sources by Federal Grantees." The principal reasons given are:

1. Grantees are given priority access to

seen a moderate increase in those with average ability. Of most importance, the two consultants observe, the armed services are achieving "a steady decrease in enlistments of those scoring below average."

Concern also had been voiced about the number of non-whites who might be attracted by the pay, the bonuses, and the fringe benefits of military service. The specter was raised of a nation composed predominantly of whites hiring blacks to do their fighting for them. Suppose blacks took over a couple of armored divisions? Were we fostering a possible racial revolution?

The percentage of non-white recruits has indeed increased, from 14.4 percent in 1970 to 19.4 percent in 1973. (In June, after the consultants had completed their report, non-whites made up 28 percent of the month's total, but Army Secretary Howard H. Callaway has discounted the significance of the June figures.) The non-white component is expected to level off at about 20 percent.

The generally encouraging picture is offset to some extent by three areas of concern. The armed services, even with enlistment bonuses ranging up to \$3,000, still are having difficulty in attracting recruits for such critical skills as electronics. Enlistments are lagging in the reserves. And doctors and dentists are still hard to come by.

Binkin and Johnson made no effort to minimize the problems of meeting recruiting goals now in effect. If the object is to enlist \$64,000 young men a year, "one out of every three qualified and available men will have to volunteer for active military service before reaching age 21." Put that way, the task sounds formidable; nevertheless, in fiscal 1973, "true volunteers enlisted at a rate that, by implication, satisfies this long-term requirement."

The armed services, in the consultants' view, need not rely so heavily on young male volunteers. Almost three-quarters of military assignments are non-combat duties, capable of being performed as well by women as by men. But the present plan is to increase the number of women merely from today's 2 percent to 4.3 percent by 1977. Enlistment quotas could be further adjusted by turning perhaps 100,000 military jobs over to civilians. This is known, in the consultants' horrid noun, as "civilianization," and they are all for it.

As I remarked earlier, most of a serviceman's grisly days is gloomy stuff. Many programs of national importance—public welfare, for one notable example—are palpable fancies. But the development of an all-volunteer armed service may prove a welcome exception. The plan appears to be working fairly well and you can hardly say that about much of anything, anymore.

THE LIDDY CONTEMPT CITATION AND THE LITTLE CIGAR ACT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1973

Mr. LEHMAN. Mr. Speaker, on Monday, September 10, I was attending an important meeting in my district with the Florida Association of Broadcasters and was, therefore, unable to cast my vote in Washington.

Had I been present I would have voted "aye" on rollcall No. 442, the contempt citation for G. Gordon Liddy, and "aye" on rollcall No. 443, the passage of the Little Cigar Act.

EXTENSIONS OF REMARKS

EUGENE B. McDERMOTT

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1973

Mr. COLLINS of Texas. Mr. Speaker, a few days ago we lost one of our greatest citizens in Dallas. Eugene B. McDermott was outstanding in so many ways. He was brilliant of mind and creative of spirit. He was most generous and his memory will be in perpetuity in Dallas.

I most admired Gene McDermott for his commonsense. I remember so well a conversation we had at a dinner party a few months ago. The conversation had drifted around to the subject of ways to make life easier. Gene pointed out so forcefully with illustration after illustration that progress comes through hard work. There was no arbitrary way to set up quotas for top jobs or for top academic leadership. He said it takes a lot of reading to get smart. He said it takes a lot of work to build success.

Here was a man that loved everyone he ever saw. Gene was a gentle, kindly man. If there were a way to make life easier, he would have been the first to want to provide it for others. But I wish everyone could have heard his excellent advice that night as he told them there is no shortcut for opportunity and success.

I include for the Record the editorial of August 28, in the Dallas Times Herald. The editorial follows:

EUGENE B. McDERMOTT

In the death of Eugene B. McDermott, this community has lost one of its outstanding philanthropists and civic leaders. Mr. McDermott was co-founder and chairman of the board of Texas Instruments, Inc. As one of the key persons who built TI into a giant electronics industry, Mr. McDermott established himself as a highly successful businessman.

But his success as a human being was far greater. As one of Dallas' foremost civic and cultural leaders for many years, Mr. McDermott gave generously of his time and talents and money to institutions and causes to enhance the quality of life in Dallas. He was especially generous with his money.

Said his business partner, former Mayor Erik Jonsson: "I never knew him to say no to any worthy cause. He had little regard for money, just for money's sake."

In addition to contributions to charity, he and Mrs. McDermott gave millions of dollars to educational institutions, particularly to Southwestern Medical School here.

The great esteem in which his fellow Dallasians held him is illustrated by the numerous honors bestowed on him. Included among these honors were the 1972 service award of the Dallas Hospital Council, the Distinguished Citizens Award of the Dallas Chamber of Commerce, the Santa Rita Award of the University of Texas System Development Board and the prestigious Linn Award for his contributions, benefiting Dallas.

"He was the most generous and kindly man I've ever known," said Mr. Jonsson. "He will be missed very much."

And indeed he will be missed. This community is a much better place in which to live because of Eugene B. McDermott. It will be poorer for his passing.

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SEEKING OUR MIAS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1973

Mr. GILMAN. Mr. Speaker, today I am introducing a measure calling for a thorough and complete investigation into the status of our servicemen still designated as "missing in action" as a result of our military involvement in Southeast Asia.

Since the termination of our military operations in Vietnam and Cambodia, we have welcomed home more than 500 prisoners of war. Yet our joy at the homecoming of those brave men is dampened by the uncertainty of the status of over 1,200 servicemen still missing.

Our Nation has been attempting to pursue the destiny of these 1,200 Americans. Agreements with the North Vietnamese Government in the peace treaty of January 1973 and the joint communiqué of June 1973, emphasized and detailed the procedure by which we must seek information concerning our missing men.

We have established the Joint Casualty Resolution Center and created the Four-Party Joint Military Team. Both of these agencies have been seeking information since military operations were terminated. However, much of their effort has been thwarted by disagreements with the North Vietnamese Government. As a result, we are still awaiting definitive information as to the whereabouts of over 1,200 American men.

The families and friends of these men have been remarkably patient—but there is a feeling of despair and disappointment among those concerned parents and spouses which grows daily without any information concerning their loved ones.

For over 6 months, the inquiries of families and friends have been held in abeyance while our governmental investigation attempts have resulted in relatively no new information.

Accordingly, the resolution I am introducing today calls for:

First, a thorough, coordinated investigation by the House Foreign Affairs Committee and the Senate Foreign Relations Committee in an endeavor to exhaust all possibilities of procuring information relative to those men still missing in Southeast Asia, with the objective of developing recommendations as to the most expeditious method for resolving the existing impasse in negotiations and in determining the status of the over 1,200 missing servicemen.

Second, in the interim, prohibiting aid of any type to the North Vietnam Government until such time as we resolve these conflicts with respect to our missing, captured, or dead American soldiers.

Third, inquiry with all the nations in the vicinity of Vietnam concerning any American citizens held in any nation as a result of our Vietnam conflict.

Mr. Speaker, there is an urgent need for an exhaustive congressional inquiry into this lingering problem. I urge and

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invite my colleagues to join in this effort to determine the status of those unaccounted servicemen.

I am pleased that Congressmen HERR, MITCHELL, WALSH, ROWLAND, of New York, KIRCHMAN, PATTERSON, WOLFE, STEELMAN, and FARR have joined in sponsoring this measure in an effort to bring the question of our MIA's to a satisfactory resolution.

OBJECTIVES AND RESPONSIBILITIES OF THE FEDERAL RESERVE SYSTEM

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1973

Mr. FRENZEL. Mr. Speaker, last Saturday, Chairman Arthur Burns of the Federal Reserve System was in Minneapolis for dedication of the Minneapolis Federal Reserve Bank.

His address, "Objectives and Responsibilities of the Federal Reserve System," is a brief and clear statement which should be of interest to all who are concerned by actions of central banks. I commend it to my colleagues:

OBJECTIVES AND RESPONSIBILITIES OF THE FEDERAL RESERVE SYSTEM
(Address by Arthur P. Burns)

It is a great pleasure to join you here today at the opening ceremonies of the Federal Reserve building that now graces the Twin Cities. The beautiful new home of our Federal Reserve Bank, with its truly unique architectural design, is the physical expression of the hopes and dreams of many people.

The Directors of the Federal Reserve Bank of Minneapolis were looking to the future when they chose the site for this building. They had the courage and vision to make this new facility an integral part of the Gateway Redevelopment Area. In earlier times, the Gateway was known as the entrance to the vast Western prairie. Today, this Federal Reserve Bank can be the gateway to a brighter and better economic future for all Americans.

The business leaders of this great metropolitan area played a prominent role in the planning and construction of the new building. Joyce Stein, the former Publisher of the Minneapolis Star and Tribune, was Chairman of the Board of Directors of this Reserve Bank through 1968. In that capacity, he directed the early planning for the building. The late Robert Leach, a highly-respected St. Paul attorney, succeeded Mr. Stein as Chairman of the Board, serving the Federal Reserve from early 1968 until his untimely death in December 1970. The present Chairman, David Lally, played a substantial role in bringing the project to completion.

The man chiefly responsible for the new building, however, is the late Hugh Caluhs, the former President of this Bank, whose career was cut short by a tragic accident in 1971. Hugh Caluhs was a most remarkable man. He had the inquiring mind of a scientist, and at the same time the spirit of a frontiersman. He was venturesome, bold, joyous, and imaginative. He was not afraid of newness and challenge, as the unique structure to which he devoted so much of his energy indicates. His fine judgment led to the selection of the architect for the building—Gunnar Behre— and to the approval of its unusual design. He convinced skeptics at the Federal Reserve Board of the wisdom of his plan, and he did so in a gentle but persuasive manner.

Over the years, the Federal Reserve System has been fortunate in attracting outstanding men like Hugh Caluhs—and his successor Bruce MacLaurin—to devote their lives to public service at the central bank. The reason for this lies in the character of the Federal Reserve System and the vital role it plays in national economic policy.

The Federal Reserve was endowed by legislative mandate with a substantial degree of independence within government. Freedom from the daily pressures of the political process has given the Federal Reserve the opportunity to make the hard choices that continually confront those who are responsible for economic and financial policies. Over the years, the Congress has significantly enlarged the duties and responsibilities of the Federal Reserve System. The status of our central bank has therefore grown within the councils of government and in the minds of our people. Nowadays, the people of America expect the Federal Reserve to use its great power to thwart—or at least to moderate—business recessions, and they also look to the Federal Reserve as the ultimate defender of the purchasing power of their currency.

To earn the confidence of the American people, the members of the Federal Reserve family have observed rules of conduct that animate our great universities and our courts of justice. We have sought to foster a spirit of freedom and objective inquiry in the field of economic analysis. Our staff in Washington and the staffs of the individual Reserve Banks are encouraged to analyze economic and financial problems in the spirit of science and to express their findings freely. The Directors of our Reserve Banks, who are drawn from every region and, practically every branch of business in our country, provide a constant stream of up-to-date information on business and financial developments. When the Presidents of the individual Reserve Banks meet with the Federal Reserve Board, as they do at very frequent intervals in our nation's capital, they have at their disposal a system of economic intelligence that cannot be matched by any organization or agency in our country or, for that matter, anywhere else in the world.

Concern for the general welfare, moral integrity, respect for tested knowledge, independence of thought—these are the basic concepts of the Federal Reserve. They are the foundations on which our nation's monetary policy is constructed.

The Federal Reserve must, of course, account for its stewardship to the Congress and to the general public. We do so through news releases, publications, public addresses, and testimony before Congressional committees. The information that our central bank discloses about its myriad activities vastly exceeds, both in promptness and detail, that of any other central bank. We do, of course, withhold for a time information that could cause embarrassment to a foreign government or that might enable the more alert members of the financial community to gain an early and unfair advantage over other citizens by becoming privy to the precise plans that the Federal Reserve has set in motion. Even here, once the need for delay in reporting has passed, full disclosure is made by the Federal Reserve, so that the Congress and the interested public may be in a position to appraise the System's policies and actions, and so that we ourselves may benefit from outside review and criticism.

It is precisely because of its openness and impartiality that the Congress has retained occasional demands to bring the Federal Reserve under this or that administrative branch of the Federal Government. Both the Congress and the informed public have perceived the great damage that could be done to our nation's prosperity by weakening the independent voice of the Federal Reserve within our government. The senti-

ment, I believe, has been shared by every President since Woodrow Wilson's time, although the fervor of our presidents for the independence of the Federal Reserve may at times have been greater upon leaving office than when they themselves were still wrestling with the nation's economic problems. Monetary policy in this country carries a heavy burden of responsibility for the maintenance of economic stability. Actually, our nation sometimes expects more from the Federal Reserve than we can reasonably expect to accomplish. In view of the imperfect tools with which we work and the complex problems that our nation faces.

During the past decade, our nation has generally experienced prosperity, but the prosperity has been marred for many of our people by persistent and rapid inflation. Many factors are responsible for this unhappy development—among them, a protracted and unpopular war, and abuses of market power by some of our business firms and trade unions. But I believe that the most important underlying cause has been the looseness of our Federal fiscal policies. Federal spending has been rising with disconcerting speed during the past decade. Despite the costly war in Vietnam, new governmental programs have been enacted at a dizzy pace, almost without regard to their cost or to the state of public revenues.

Deficits have therefore mounted in both good years and bad. In fiscal 1968, a year of rapidly advancing prosperity, the Federal deficit came to \$1.8 billion. In fiscal 1970, a similarly prosperous year, the deficit amounted to \$14.4 billion. In three of the past six years, the deficit came close to, or actually reached—\$25 billion. Nor do even these figures tell the full story of how much Federal money has been paid out to the public beyond what the government collected in taxes. Governmentally-sponsored corporations, such as the Federal National Mortgage Association and the Federal Home Loan Bank, have also gone heavily into debt and poured out additional billions that are excluded from the budgetary totals. In the fiscal year just ended, the net borrowing by Federally-sponsored agencies exceeded \$11 billion.

The continuance of large Federal deficits at a time of rapid resurgence of the economy has inevitably stimulated private spending and aggravated upward pressure on the level of prices. In fact, our economy is suffering at present from stronger inflationary pressures than at any time since the outbreak of the Korean War. Prices have risen sharply since the beginning of this year, and they are continuing to rise.

In view of the huge expansion in production and employment that we have experienced during the past year, it would have been difficult to avoid an appreciable upward movement of the price level even with a balanced Federal budget. But as the facts would have it, several unusual factors combined to impart a new dimension to our inflationary problem this year. First, the devaluation of the dollar not only resulted in higher prices of imported goods; it also affected our price level by leading to some substitution of domestic for foreign products and by imparting a sharp impetus to foreign demand for our products. Second, our economic expansion has been accompanied by rapid expansion in virtually every other industrial country.

The world-wide demand for capital equipment and industrial materials—goods for which the United States is a major supplier—has therefore burgeoned. Third, our current ability to expand output of basic industrial materials is narrowly limited—in large part because investment by producers of key materials has been held back in recent years by unsatisfactory profits and now environmental controls. Fourth, bad weather in a number of countries severely restricted agricultural

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2. What ways are available to fight job discrimination against the handicapped?

3. Why are we asked just as ex-cour, ex-mental patients, ex-anything to prove ourselves all over again? Who decided to set that precedent and how do you get rid of it?

4. Why are we rejected for coverage by insurance companies and yet are not eligible for any other medical assistance?

5. Why can't we get other kinds of training if we find employment difficult in areas already trained for whether it be college level or graduate level?

6. Are there State and Federal monies available for further study for handicapped persons?

Please accept my sincere thanks for the assistance you are able to give. Would you believe I would receive more benefits on Social Security than I am receiving now? Why can't social security payments be adjusted until work potential is at maximum capacity? Sincerely,

MAN P. JOHNSON, Secretary.
P.S. I am not just speaking for myself. I am a member of the Co. Chapter of National Paraplegic Inc. Any information you have which you feel will be beneficial to us—we feel there is hope, but we need all the help we can get.

BEAUTIFUL TRIBUTE BY CANADIAN COMMENTATOR TO AMERICAN GENEROSITY WITH NO APPRECIATION AND NO RECIPROCITY

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1973

Mr. EVINS of Tennessee. Mr. Speaker, the current edition of Human Events contains an excellent article by Commentator Paul Harvey quoting comments made by Gordon Sinclair, a Canadian commentator, with respect to the generosity and hospitality which the United States has shown other nations.

Mr. Sinclair points out that the United States came to the rescue of a number of other nations following World War II and following economic crises in those nations—with the Marshall plan and foreign aid program—but that when the United States ran into a problem with the valuation of the dollar, no nation stepped forward to return the favor.

The Canadian commentator also pointed out that—

Germany, Japan, Britain and Italy were lifted up from the debris of war by Americans who gave billions in aid and forgave billions in debt.

He said further that when earthquakes and disasters occur in other nations, the United States provides assistance but "this year, 18 communities in the United States were devastated by tornadoes" and "not one peso, pound, franc or lira came back—not one."

Mr. Sinclair adds:
I can make 1,000 times when Americans have need to help other people in trouble; they have to be the most generous and the least appreciated people on earth.

Because of the interest of my colleagues and the American people in this matter, I place this article in the Record. The article follows:

WILSON'S TEN THANKS FOR AMERICA'S AID!

(By Paul Harvey)

Gordon Sinclair is a Canadian commentator.

If he were a dues-paying American he'd be labeled a selfish localist.

But he's a Canadian who may see us even more clearly from that distance.

He says:

"Sixty years ago when I first started reading newspapers I was reading of floods on the Yellow River and the Yangtze. And who was rushing in with men and money to heal the hurt and repair the damage and feed the hungry? Americans."

"In the days before the dams, there were devastating floods in the Nile delta. And who went without even waiting to be asked? Americans."

"And when there were floods along the Amazon or the Niger or the Congo? Americans to the rescue."

"This year, 1973, the floods came along the bottom lands of Middle America. Which of their foreign friends offered to help bail the Americans out? No one."

"Germany, Japan, Britain and Italy were lifted up from the debris of war by Americans who gave billions in aid and forgave billions in debt."

"When the French franc was threatened with collapse in 1958, American dollars raced to the rescue. The only 'reward' Americans ever received for that selflessness was to be insulted and swindled in the streets of Paris."

"When the earthquakes happen elsewhere American dollars, expected, arrive. As in Managua, Nicaragua, recently."

"This year, 18 communities in the United States were devastated by tornadoes. Not one peso, pound, franc or lira came back. Not one."

"The Marshall Plan and the Truman Doctrine pumped billions of American dollars into defeated and discouraged countries, into miserable, backward, or mismanaged countries."

"Now the newspapers in those countries are making jokes about our divided dollar which has dispersed its strength on them."

"Technocracy to Japanese means radios."

"Technocracy to the Germans means cameras and cars."

"Technocracy, American-style, puts men on the moon. And then shares with the world the precious harvest of knowledge."

"But when America strikes her toe, her public scandal lightens her image on the front page of the world. In the same nations American labels were removed from gratuitous foreign aid."

"When Americans get themselves out of the bind—and they will—I'd not blame them if they said:

"Let somebody else build foreign dams, buy Israeli bonds, redesign foreign buildings so they won't shake apart in a quake."

"I can name 5,000 times when Americans have need to help other people in trouble; they have to be the most generous and the least appreciated people on earth."

"And when they get their government reorganized and their dollar revitalized, I wouldn't blame them if they just said 'To hell with the rest of the world.'"

But they won't.

103 MEMBERS SPONSOR MIA RESOLUTION

HON. ROBERT J. HUBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1973

Mr. HUBER. Mr. Speaker, back in July, I introduced House Concurrent

Resolution 271 in an effort to get something started to resolve the one big and most important problem remaining in Southeast Asia for the United States—that of our MIA's. It has taken time, but the response has been good from my colleagues and at the present moment I have 103 cosponsors for this measure. If this goodly number, accurately reflects the concern of this body on the matter of MIA's, and I have no reason to believe it does not, in my view, it is high time to get the legislation moving and this is what I intend to concentrate on in the days ahead.

Since the Congress recessed in August, nothing further has been achieved on this matter and meanwhile the anguish and bitterness of the next-of-kin of those who sit and wait for results grows deeper and deeper. Secretary of State-designate Henry Kissinger, himself, recently confirmed that not an inch of progress has been made. In my view, the passage of this House concurrent resolution would bolster his hand, focus public opinion on the issue again, and perhaps persuade the North Vietnamese and Vietcong that they have one small ounce of humanitarianism in their Marxist bones. Almost anything would be better than what the Congress is now doing about the issue which is almost nothing at the moment. Neither the American people nor the North Vietnamese and Vietcong should be allowed to forget their unfulfilled obligations. I, for one, do not intend to let the matter rest.

INVESTIGATIVE REPORTING

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1973

Mr. WALDIE. Mr. Speaker, the integrity, resourcefulness, and toughness of the working press has been demonstrated to us quite frequently during recent months of the Watergate investigation. I strongly feel the efforts of these publishers, reporters, and editors have contributed much to the understanding and strengthening of press rights granted under the Constitution.

Too often, citizens receive this reawakening of understanding concerning freedom of the press through the ambitious efforts of large metropolitan daily newspapers or network television stations. Smaller media outlets are often overlooked and receive little praise for exhibiting the same type of reportorial diligence which resulted in the aforementioned Watergate disclosures.

It is a pleasure for me to bring the attention of the House to one such newspaper, the County Employee, a publication of the Los Angeles County Employees Association.

In its August 15 issue, the Employee published a story disclosing the fact that electronic bugging devices had been placed in a division office of the Los Angeles County Clerk. The story aroused

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TIMBER CUTTING ON THE
PUBLIC LANDS

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES
Thursday, October 4, 1973

Mr. REUSS. Mr. Speaker, despite the directives of the Multiple Use-Sustained Yield Act of 1960, the Government has become preoccupied with timber harvesting in the national forests to the detriment of wildlife and recreation. The following editorial from the September 28, 1973, Louisville Courier-Journal tells the story:

PUBLIC FORESTS: ARE YOU TRYING THE PEOPLE'S BUSINESS, TOO?

The Federal government is in the timber business—make no mistake about that. Among them, the U.S. Forest Service, the Bureau of Land Management and the Bureau of Indian Affairs manage 131 million acres of commercial forest land, containing 40 percent of the nation's commercial timber. Yet the Nixon administration continues to act as though publicly controlled timber resources are not the people's business.

The latest in a long series of administration actions which support this conclusion is President Nixon's endorsement of "substantial" expansion of timbering on public lands by as much as 80 to 100 percent in the virgin forests of the Western United States.

This came little more than a month after the General Accounting Office charged that the government is letting timber contractors clear-cut large areas in national forests, then wastefully leave many felled trees behind, thus creating unnecessary fire hazards and hampering forest regeneration. And the GAO report, in turn, followed by only a few weeks the release of a White House budget manual directing the Forest Service to concentrate on getting trees sold and cut, even if it means postponing or canceling programs to help hikers and others use national forests.

Whose interests are being served here? The President calls for more trees to be cut down "a public land, in order to meet present and future timber needs. But what does he say about the Forest Service study showing that an amount of lumber equivalent to one-fifth of the entire harvest on federal lands was left behind on the ground to rot during 1968, on acreage in the Pacific Coast states? What does he recommend concerning the billions of board feet being floated off to Japan each year, thus placing an extra burden on productivity on America's domestic forest resources—a problem which even his advisory panel recognized, in urging negotiation of a reduction in timber exports to Japan?

THE DEBATE'S ANSWERS

The latter is a complicated question, involving the desperate Japanese need for wood—particularly hemlock and other whitewoods. Japanese imports from the United States totaled about 2.5 billion board feet in 1972, and the timber industry fears not only the loss of that market, but a diversion to Japan of more lumber from British Columbia, thereby bidding up prices in a province that provides one-third of all the lumber used in American homebuilding.

The industry also argues (1) that exports have provided the dollar incentive for it to reduce waste, by bringing sales stability to a volatile market; (2) that sharply reduced exports would be disastrous for Washington State, which accounts for 83 per cent of all U.S. softwood exports and which could lose an estimated 8,000 jobs directly and 18,000 jobs indirectly; and (3) that the United States would jeopardize the current \$500 million annual contribution made by timber exports to the right side of the balance of payments ledger.

This is a formidable list of caution flags. It suggests that export curbs must be applied gradually, to give the Japanese and their American suppliers time to adjust. But it does not suggest that producers—whether for export or the domestic market—should be allowed to jeopardize public forests.

The national forests are supposed to be operated under terms of the Multiple Use-Sustained Yield Act of 1960, with balanced attention given to various uses (timber, water, wildlife, grazing, recreation, mining). In reality, timbering is the eager preoccupation of those who make the policy for such lands. President Nixon, for example, has boldly ignored the sentiments expressed in congressional action, by arbitrarily boosting the allowable cut in the national forests.

SQUANDERING A LEGACY

This concession to administration friends in the timber-company boardrooms has had destructive consequences, not the least of them an encouragement to ignore good forestry practices in the interest of maximum production. Under normal circumstances it's hard enough to do a good job of clearcutting (removal of all trees in a given area, as opposed to selective cutting of individual trees) without destroying the forest environment. But with both government and industry ranting about the need to speed up and increase the timber cut, careless application of clearcutting is all the more likely.

The results of such a breakdown in proper management could be ruinous, considering the fact that clearcutting is practiced on 80 per cent of the one million acres which private timber concerns are now harvesting in the national forests.

One of the major purposes of our federal government is to provide the American people with ways to protect themselves against the excesses of private interests. The Nixon administration, in encouraging the timbermen as it has encouraged those who strip coal, seems to be trying to repudiate that vision of the government's role in American life. Publicly owned forest land is one of the greatest of the many natural legacies inherited by the American people. It's surely a legacy to be protected rather than squandered.

NATIONAL EMPLOY THE HANDICAPPED WEEK

HON. JOHN BRADENAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES
Thursday, October 4, 1973

Mr. BRADENAS. Mr. Speaker, I want to call to my colleagues' attention to the fact that next week, the week of October 7, has been designated "National Employ the Handicapped Week, 1973."

Said President Nixon in signing the proclamation:

Perhaps the greatest difficulty a handicapped person faces is not his own disability, but rather the attitudes of society concern-

ing that disability. Yet, handicapped people are able to perform a wide range of jobs with great skill and efficiency. The employer who hires the handicapped is not only helping them; he is also helping himself and his country.

Mr. Speaker, happily we will be observing "National Employ the Handicapped Week" in the context of the President's finally having recently signed, after two successive vetoes, the Rehabilitation Act of 1973.

So that my colleagues can understand the significance of this week to the 7 millions of handicapped citizens of our land, I insert the proclamation at this point in the Record:

PROCLAMATION 4345—NATIONAL EMPLOY THE HANDICAPPED WEEK, 1973

A PROCLAMATION

This country was founded upon a promise made to all of its people: that our government would work to assure every citizen a fair and equal start in the race of life. Implicit in this promise is the concept that a person has a right to compete for any job he is able to perform.

This promise has been kept for a great many of our people, but not for all. Too many handicapped persons—particularly young disabled veterans—are unable to find work.

Perhaps the greatest difficulty a handicapped person faces is not his own disability, but rather the attitudes of society concerning that disability. Yet handicapped people are able to perform a wide range of jobs with great skill and efficiency. The employer who hires the handicapped is not only helping them; he is also helping himself and his country.

Let us all work together to make good on the promise America has always held out to its people—allowing each person who is willing to work and who is qualified to work a fair chance to work.

Now, therefore, I, Richard Nixon, President of the United States of America, in accordance with a joint resolution of the Congress approved August 11, 1964, as amended (80 U.S.C. 108), do hereby proclaim the week of October 7, 1973, as National Employ the Handicapped Week.

I urge the Nation's Governors, mayors, and all other public officials, as well as leaders in every area of American life, to join with the handicapped themselves in making this observable a time of new awakening in our country to the value and the importance of employing handicapped men and women.

In witness whereof, I have hereunto set my hand this eighteenth day of September, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-eighth.

RICHARD NIXON.

MIA'S—THE FORGOTTEN ONES

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES
Thursday, October 4, 1973

Mr. ASHBROOK. Mr. Speaker, not getting much attention except by those who are missing a loved one is the fate of 1,243 American men missing in action in Vietnam, Cambodia, and Laos. The return of American POW's was met,

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as it should be, with great rejoicing. There was no rejoicing nor even news for the families of these other 1,243 men.

The North Vietnamese are obligated by the January 27, 1973, Paris Agreements on Vietnam, Article 8, paragraph (b) states:

The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action.

The responsibility of the North Vietnamese to aid American efforts in this regard is clear. In the supplemental agreements of June 13, 1973, article 8, paragraph (b) was reemphasized.

The U.S. Government has established the Joint Casualty Resolution Center—JCRC—at Nakhon Phanom, Thailand, to determine the status and investigate reports about American MIA's. On May 11 and May 18, 1973, members of the JCRC, as part of the four-party military team, were allowed to go to Hanoi. In Hanoi they were shown the alleged burial sites of U.S. servicemen. The North Vietnamese Communists would not allow the exhumation of the bodies. No determination could be made if Americans were actually buried there and if they were Americans, who they were.

The North Vietnamese Communists have not allowed the JCRC back into

North Vietnam. The Vietcong and North Vietnamese Communists in South Vietnam have refused searches in territory they hold.

In the original Paris agreements the United States agreed to and did pull out its troops, restrict the amount of supplies sent to the free South Vietnamese, and gave a number of other concessions. The North Vietnamese and Vietcong agreed to release American POW's, to help locate American MIA's and the bodies of American men killed in action, and to restrict their activities in South Vietnam.

Eighty-three Americans have been identified in either pictures or by those POW's who returned home as having been held prisoner by the North Vietnamese. The North Vietnamese have released no information on these men. While the likelihood of these 83 still being alive is slight, there is no military reason for the North Vietnamese being as cruel and inhuman as they are being in this matter.

The Paris agreements are clear. Hanoi made pledges which it has broken. Once again the Communists have broken an agreement that they have signed.

I urge all Americans to demand an accounting of our more than 1,200 MIA's. This is no time to consider initiating any type of political, cultural, economic, or diplomatic relations with the North Vietnamese. Also, we should discourage our allies from giving any aid to North Vietnam. The North Vietnamese have ex-

(in percent)

Age	Male		Female	
	Yes	No	Yes	No
18 to 27	24	16	28	12
28 to 37	22	14	20	10
38 to 47	18	12	15	8
48 to 57	10	4	10	4
Over 57	5	2	5	1
Total	80	46	82	35

If budget limits and spending ceilings are not and respected, it will take us half the time on Federal spending and then be a disaster to continuing in this. I have introduced a bill to require a balanced Federal budget in times of emergency.

2. The proposed budget for fiscal year 1974 calls for a 10 percent increase in Federal spending beyond that amount.

Age	Male		Female	
	Yes	No	Yes	No
18 to 27	8	32	6	34
28 to 37	10	30	6	34
38 to 47	4	18	4	16
48 to 57	5	10	2	17
Over 57	7	32	5	25
Total	34	122	23	126

No. The American people are burdened with enough taxes now. I promised to vote to hold the line on Government spending and resist any tax increase and will continue to hold that pledge.

3. Do you favor giving aid to North Vietnam after there has been an accounting of our MIA's?

Age	Male		Female	
	Yes	No	Yes	No
18 to 27	12	28	18	32
28 to 37	11	23	12	28
38 to 47	6	14	9	21
48 to 57	6	14	9	21
Over 57	10	30	13	27
Total	45	109	59	139

The Communists are still fighting us, we won an outright victory in 1975, and we have more rebuilding than we can handle on the homefront as it is. I don't feel that we should go to rebuilding America.

4. Should Federal employees be allowed to strike?

Age	Male		Female	
	Yes	No	Yes	No
18 to 27	23	47	45	55
28 to 37	22	44	40	60
38 to 47	22	44	40	60
48 to 57	25	47	20	60
Over 57	25	47	20	60
Total	115	229	165	335

Age	Male		Female	
	Yes	No	Yes	No
18 to 27	21	79	11	89
28 to 37	20	80	9	91
38 to 47	11	89	9	91
48 to 57	11	89	9	91
Over 57	15	85	14	86
Total	78	322	52	217

I prefer emphasizing collective bargaining and limiting arbitration in cases where Federal employees differ from existing policies.

5. Should citizens be eligible to receive food stamps?

Age	Male		Female	
	Yes	No	Yes	No
18 to 27	25	75	25	75
28 to 37	22	78	22	78
38 to 47	22	78	22	78
48 to 57	22	78	22	78
Over 57	32	68	31	69
Total	121	389	120	380

We certainly don't want anyone in America to go hungry, but I can see no reason why voluntary efforts should be subsidized by the government.

6. Do you favor increasing Federal spending to curb pollution if it means higher taxes?

Age	Male		Female	
	Yes	No	Yes	No
18 to 27	44	56	43	57
28 to 37	23	77	22	78
38 to 47	22	78	22	78
48 to 57	22	78	22	78
Over 57	32	68	31	69
Total	153	309	140	292

(a) Are you satisfied with the progress that is being made in cleaning up the environment?

Age	Male		Female	
	Yes	No	Yes	No
18 to 27	20	80	31	69
28 to 37	43	57	39	61
38 to 47	61	39	56	44
48 to 57	62	38	51	49
Over 57	48	52	44	56
Total	294	270	261	239

(b) Would you be willing to pay more for products and services if their manufacture and use could be made virtually pollution-free?

Age	Male		Female	
	Yes	No	Yes	No
18 to 27	71	29	36	64
28 to 37	65	35	53	47
38 to 47	43	57	48	52
48 to 57	43	57	48	52
Over 57	69	31	62	38
Total	291	114	247	113

Pollution must be curbed, and it's going to take a lot of money over the next few years, but I would prefer reduction of existing tax dollars rather than a tax increase.

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convinced that significant progress in this direction can be achieved through increasing United States' economic and diplomatic pressure on those countries refusing to cooperate. We might also encourage the release of all prisoners being held for political crimes in South Vietnam. This would remove Hanoi's principal excuse for refusing to allow MIA search teams access to Communist-controlled territories.

The fact remains, however, that 1,300 American servicemen are currently missing in Southeast Asia. These men performed a service for their country, a service which, in many cases, cost them their lives. Our Government has an obligation to account for every American who served in the Indochina war. Only then will United States' involvement be completely terminated.

LEGISLATION IS NEEDED TO REVERSE FDA VITAMIN REGULATION

HON. RICHARD T. HANNA

of California

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1973

Mr. HANNA. Mr. Speaker, the Subcommittee on Public Health and Environment is presently considering legislation sponsored by Congressman Hansen and cosponsored by myself and many others which would reverse the FDA's recently published regulations on vitamins and food supplements. These regulations, as I am sure my colleagues are aware, have created a storm of controversy. That controversy, in my view, has arisen because the FDA's regulations are philosophically and practically unsound. They act against the basic thrust and meaning of our system of government. They go against the grain of what the American public rightly understands to be the proper function of government.

Because of the great interest which has been generated by the FDA regulations and the legislation to reverse them, I am inserting in the Record for my colleagues' information, the testimony I submitted to the subcommittee on these matters.

TESTIMONY BY REPRESENTATIVE RICHARD T. HANNA

As one of the co-sponsors of legislation to reverse the FDA's recently published regulations on vitamins and food supplements, I welcome the opportunity to address this Subcommittee. The issues involved in the passage of this legislation are not difficult. But often it is that the most clearly drawn issues of public policy are also those which are the most profound. And, the issues addressed by the bill before you are profound. They are profound because they go to the basic roots and substance of the lives of ordinary people in this country. They are profound because they bear on the question of the fundamental role of government in a free society. And they are profound because they point out the limits of sensible government regulation.

My reasons for offering legislation to reverse the FDA's policy in the area of vitamins and food supplements boil down to this: my basic philosophical disagreement with the FDA's position and my strong belief that their regulatory program in this area is, simply stated, just bad and impractical regulation.

The late Justice Brandeis once wrote that "the greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding." In my view, the FDA's regulatory policy regarding vitamins is the kind of "insidious encroachment" which Mr. Justice Brandeis had in mind. Under the FDA's regulations, any single vitamin tablet, which exceeds the Recommended Daily Allowance for the average adult can be obtained only through prescription. Moreover, the FDA's rules would prohibit the combining of any vitamins in other than the combinations FDA approves and would prohibit the combining of vitamins or minerals with other associated food factors.

These regulations are not based upon any firm scientific evidence that vitamins taken in quantities above the Recommended Daily Allowance are intrinsically harmful to health. In many instances, just the opposite is true. For example, the FDA would require people to go to a doctor to obtain a prescription to purchase a Vitamin A tablet which exceeds 10,000 units. But a cup of dried carrots furnishes 18,000 units and a 3 oz. serving of fried beef liver provides 30,000 of such units. Is it credible to assert that the interposition of the government is necessary to protect people from a tablet which has only one-third the potency of 3 oz. of beef liver? I submit, Mr. Chairman, that it is not.

In its report on this bill, the Department of Health, Education, and Welfare would have us believe that a vitamin should be classified as a drug simply because it is "offered for the treatment or cure of disease." As such, according to HEW, the manufacturer should have the affirmative burden of proving that the vitamin is safe and effective. I don't dispute the FDA's legal authority under existing law to reason this way if it so chooses. What I do question is the wisdom and sense of justifying a disruptive public policy only on the basis of the technical legal meaning of statutory provisions and on the basis of reasoning that amounts only to the neat syllogism that since drugs are usually "offered for the treatment or cure of disease," vitamins which are so offered should be regarded as a drug. With this kind of reasoning, the old adage of "an apple a day keeps the doctor away" would require those of us who go to "cesses" by eating two apples to have a prescription to do so. Of course, nothing could be more absurd.

The absurdity of the FDA's position arises from the fact that, realistically speaking, in no stretch of the imagination can vitamins be called drugs. The nutritional elements consumed in a vitamin pill are for the most part, precisely the same as may be consumed in a totally unsupplemented diet. The same Vitamin A which is regulated by the FDA is found in carrots.

The same Vitamin C which is regulated by the FDA is found in citrus fruit. The same iron which is regulated by the FDA is found in red meat. It is clear that the FDA's regulation of food supplements is merely a regulation of form and not of substance. If you package ascorbic acid in the form of orange juice, the regulations don't apply, but if you package it in the form Vitamin C tablets, they do.

With all of these factors in mind, Mr. Chairman, it seems to me that the FDA has crossed the very fine but very definite line between government protection as a servant of the people and government protection as master of them. The warning of President Eisenhower rings truest in cases like the one before this Committee now: "Every step we take toward making the State the caretaker of our lives, by that much we move toward making the State our master."

No one offering this legislation would defend a vitamin producer's misrepresentation of the contents of his product or his failure to disclose additional information under circumstances where a half-truth would mislead the public. But that issue is not involved in these FDA regulations. What is involved is nothing less than government regulation of the human diet—not because it has been found that vitamin consumption is intrinsically unhealthy—but only because the circumstances surrounding the consumption of vitamins are similar to those surrounding the consumption of drugs.

I submit, Mr. Chairman, that we embark upon a historically dangerous path when we place the affirmative burden upon the citizen to prove the adequacy and effectiveness of his diet. In our system of government and jurisprudence, legally imposed affirmative burdens on the citizen are few. And they are few for precisely the reason that government-mandated affirmative duties are the exception in a free society, but are the rule in a tyranny. Only the most compelling reasons of public policy can justify the creation of such positive duties, and the simple fact is that the FDA has failed to present any compelling case. Of course, this presumption is reversed with regard to what is ordinarily understood to be a "drug." But that is because true drugs often involve the introduction of unaccustomed elements to the human body, and in our common experience we have learned that the risks of such practices are so high as to require the imposition of maximum safeguards. This kind of standard, however, is hardly applicable to Vitamin C. And these FDA regulations, while perhaps falling within the letter of the law, hardly meet its spirit. Surely the philosophy which lies behind these regulations is not the philosophy which imbues the Food and Drug Act. Passage of the legislation before you will reassert what that fundamental philosophy is.

Not only are the FDA's vitamin regulations unwisely from a philosophical point of view, they are unsound from the standpoint of what makes for practical, sensible regulation. What is the real impact of these regulations? It is not to limit the consumption of vitamins. Rather, it simply makes their consumption less convenient. And more inconvenience is hardly the proper tool to employ to protect people from what presumably can be harmful to them.

This nonsensical aspect of the FDA's regulations arises from the fact that under them people can still purchase and consume vitamins in whatever quantity they so desire, so long as they do so by consuming individual tablets of a specified potency. What this means, for example, is that if you wish to consume 1 gram of Vitamin C per day, you can still do so—but only if you take 11 tablets. Or, if you just want to supplement your diet with a single pill containing both Vitamin A and Vitamin D, you can't—unless you take 7 other vitamins at the same time. Dr. Albert Szent-Gyorgi, who won the Nobel Prize for his research into the metabolism of Vitamin C and Vitamin A, has written that he consumes two grams of Vitamin C per day. Isn't it just a little ridiculous to require him to take 22 tablets for this purpose?

The practical fact of the matter, Mr. Chairman, is that millions of Americans supplement their diet with vitamins. I have no doubt but that these consumers will continue their dietary habits regardless of the FDA's regulations. The only difference will be that once the FDA rules go into effect, these consumers will have to do an end-run around the law. When government regulations encourage avoidance of the law, they breed disrespect for legal authority. And, particularly in these times, we can hardly afford to encourage that kind of attitude.

In sum, Mr. Chairman, these FDA regula-

CONGRESSIONAL RECORD—SENATE

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SENATE PROVISIONS REMOVED OR SERIOUSLY WEAKENED

ECONOMIC ASSISTANCE—S. 2335

1. The prohibition against "follow-on" aid projects was dropped.
2. The requirement that not more than one-third of the loan renewals available for lending be used in any one of the new program categories was removed.
3. The requirement that not more than 50% of the appropriations for the new categories can be used as grants was dropped.
4. The provision encouraging and emphasizing a shift of bilateral aid programs to multilateral institutions was deleted.
5. The prohibition on training of foreign police forces was watered down to exempt training in the United States and all existing contracts for training abroad.
6. The Senate's repeal of the authority for use of loan renewals was delayed for two years, and, in the interim, 50% of loan repayments will be available for lending.
7. The earmarking for population programs in FY 1975 was cut from \$150 million to \$130 million.
8. The access to information provision was dropped.

MILITARY ASSISTANCE AND SALES—S. 1443

1. The Senate's rewrite of the statutory framework for the military aid and sales program was dropped.
2. The Senate authorized military grant on a country-by-country basis to only nine countries. These specific authorizations were stricken and the President given a lump sum of \$12.5 million to use as he sees fit in giving arms aid to up to 31 countries, in addition to those given training aid only in the U.S.
3. The Senate's prohibition against lending weapons to other countries was eliminated.
4. The Senate's denial of general waiver authority to the President on military aid matters was eliminated.
5. The Senate did not give the President authority to draw on Defense Department stocks for use as military aid, as has been traditional in the past. This authority was reallocated for \$250 million in this fiscal year.
6. The Senate returned funding of military aid to South Vietnam and Laos to funding out of the regular foreign aid program effective June 30, 1973. The House bill did the same but effective beginning July 1, 1974. The conference left funding for Vietnam in the Defense budget for the indefinite future.
7. The Senate bill required partial foreign currency payments for military grant aid, comparable to existing law. The conference struck this provision and repealed the current requirement.
8. The conference agreement dropped the Senate bill's requirement that sales of military equipment be handled through commercial channels wherever possible. This provision was designed to minimize the government's role as an arms salesman.
9. The Senate required that the minimum interest rate on military credit sales be set at the cost at which the government borrows money. The provision was dropped.
10. The Senate bill tightened the ceilings on military grants and governments sales to Latin America. The conference raised the effective ceiling.
11. The Senate bill's requirement that the value of excess defense articles given to foreign countries be deducted from appropriations for military aid was greatly weakened.
12. The Senate bill's requirement for strict Congressional control over loan and sale of military vessels was dropped.
13. The access to information provision was dropped.

THE AMENDMENTS DELETED OR WEAKENED SERIOUSLY

1. Mondale—Calling for convening of an international conference for controls of conventional arms.

2. Pell—U.S. aid policy toward Greece.
3. Pell—Support for the Vietnam cease-fire agreement.
4. Tunney/Magnuson—Vessel transfers and U.S. fishing interests.
5. Mondale—Austrian transfer center for Soviet Jews.
6. Taft—Earmarking \$150 million for population in FY 1975 (agreed to \$130 million).
7. Tunney—U.S. aid to Portugal.
8. Byrd of Virginia—India rupee agreement.
9. Byrd of W. Virginia—Reduction of AID administrative expenses to \$24 million (agreed to \$45 million).
10. Chiles—Prohibition against follow-on aid projects.
11. Stevens—Restrictions concerning transfer of vessels.
12. Harris—International trade in narcotics.
13. Kennedy—Establish a Bureau of Humanitarian and Social Services.
14. Kennedy/Javits/Muskie—Aid for exchange of people between Pakistan and Bangladesh.
15. Kennedy—Earmarking for the Red Cross in Indochina.
16. Kennedy—Language for authorization of economic aid to Indochina.
17. Case—Emphasizing shift from bilateral to multilateral aid.
18. Case—Restore funding of military aid to Vietnam to the regular foreign assistance program.
19. Case/Frankire—Public information on military aid matters.
20. Nelson—Establishing a system for Congressional action on certain military sales.

VIETNAM—THE MISSING IN ACTION

Mr. ROTH. Mr. President, one of the continuing tragedies of the Vietnam war is that more than 1,200 Americans are still missing and unaccounted for in Southeast Asia. We do not know what fate they have suffered, but their families and friends cannot forget those they love and we, as a Nation, cannot forget those who served their country in the most trying circumstances and were lost.

Since the January cease-fire agreement strenuous efforts have been made to find and account for these men. Searches of crash-sites have been carried out, but with only marginal results. Significant new operations cannot be made because of the continued refusal of North Vietnam and the other Communist parties in Indochina to permit inspections of crash-sites and other information gathering activities for this humanitarian purpose on the territories under their control. In addition, North Vietnam has not accounted for men we know they had captured and whom they are obligated to return or to account for under the cease-fire agreement.

There can be no improvement in our relations with North Vietnam until they have completely fulfilled their treaty obligations respecting POW's and MIAs. I cannot imagine the President of the United States, the Congress of the United States, or the people of this country seriously considering trade with, much less aid to, North Vietnam so long as our missing are still unaccounted for.

I think this message should be communicated loud and clear in the strongest possible terms to the North Vietnamese. That months have passed since the cease-fire accords makes this problem not less compelling, but more so. Our diplomatic efforts and our searches on

behalf of our missing should not be reduced; they must be redoubled.

ROUNDING THE PRESIDENT OUT IS WRONG

Mr. FONG. Mr. President, a very distinguished former Member of the U.S. House of Representatives and former Ambassador to Italy, the Honorable Clare Booth Luce, has written a perceptive and informed article entitled "Rounding the President Out Is Wrong," which rightly points out that our Constitution provides the only proper means for removal of a President.

Mrs. Luce reminds her fellow countrymen that—

Our Constitutional methods of relieving the country of an unpopular President (or any other elected official) are the electoral process, or, (when the gravamen are alleged crimes) the process of impeachment. Are these methods now to be forgone, in favor of poll-taking? If this precedent is established, are all high officials—senators, governors, even Supreme Court justices, to be expected to resign whenever Gallup, Harris, or Roper produce a one-per-cent sample of "public opinion" which shows that they have lost "credibility"? And exactly how low will their credibility rating have to fall before they agree to resign, in the public's interest? Will a 49.9 per cent confidence rating become the signal for them to hang their heads and quit? Or will they feel they can hold on until they reach President Truman's all-time "credibility" low of 23 per cent?

Mrs. Luce concluded:

Until a law is passed requiring a public official to resign when a one per cent sampling of public opinion shows that he has lost a legally given percentage of the public's confidence, polls are no proper basis for demanding a political resignation. They are not even good grounds for impeachment. The grounds for impeachment are clearly set forth by the Constitution, and the process is left to the duly elected representatives of the people—their Congress.

Mr. President, I ask unanimous consent that the entire text of the article as printed in Newsday be printed in the body of the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

ROUNDING THE PRESIDENT OUT IS WRONG

(By Clare Booth Luce)

In all political questions, the interests of the nation are best served by upholding the spirit and following the letter of the Constitution.

What does the Constitution have to say about a President—any President—who is alleged to be guilty of crimes or misdemeanors which make him unworthy of his high office?

It says that the President is not above the law. It does, however, say that consequent to the unique position he occupies, he is a unique personage. (At 'this point in time,' or at any point in time, there is only one man who is President.) So the Constitution provides a unique process of law by which this unique personage can be brought to the bar of justice, and tried for any crimes he may allegedly have committed.

The Constitution says that the people's elected representatives in Congress can impeach (i.e., accuse or indict) a President for these alleged offenses. It says that he must then be tried for them in a court of the Senate presided over by the chief justice of the U.S. Supreme Court. It says that if this constitutionally appointed court finds him

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gress with independent information on programs and priorities, and requires the Congress to keep expenditures within the ceiling originally adopted.

In a related area, the impoundment of appropriated funds and the discontinuation of lawfully enacted programs by the executive seriously erode the system of checks and balances contained in the Constitution. To help restore this balance, earlier in the session I cosponsored legislation to control impoundment and supported H.R. 8480, the Impoundment Control Act. Title II of H.R. 7130 establishes the procedure by which Congress can overturn the impoundment of lawfully enacted funds by the executive.

The Budget and Impoundment Control Act, while not perfect, represents the first major step taken by the Congress in years toward reforming its inefficient control over fiscal matters. Just as the war powers resolution restored the constitutional balance in foreign affairs, the final passage of H.R. 7130 will restore the balance in domestic matters by revitalizing the fiscal responsibility of the Congress.

THE QUALITY OF MEDICINE BEING ENDANGERED BY FEDERAL REGULATIONS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 6, 1973

Mr. KEMP. Mr. Speaker, the quality of medical care in the United States is important to each of us. It is a matter of health and life.

During recent years, this profession, like so many others, has been beset with new Federal regulatory and reporting requirements, some of which reduce significantly the doctors' abilities to serve adequately their patients. One of these requirements was imposed as an obscure provision of last year's Social Security Act amendments. It is the requirement of establishing "Professional Standards Review Organizations"—PSROs—assigned the tasks of second-guessing doctor's decisions on the treatment of patients under medicare, medicaid, and maternal and child health programs.

One of the rights inherent to a free society is the right of a patient to have his or her medical problems attended to in the fullest of privacy. This confidential relationship is as privileged as one between a priest and penitent or an attorney and client. Many legal authorities believe the PSRO's violate this constitutional principle.

The PSRO's were added to last year's act as an amendment on the Senate floor. It was not fully debated. It was not even the subject of public hearings in the House. It is law today because it was buried in such an otherwise complex law that it never received full attention.

I am introducing legislation, together with other Members, to repeal the PSRO requirements. I believe this to be in the best medical and legal interests of the patient community. At the very least, its

introduction ought to engender the debate and public hearings necessary to air fully the pros and cons of this issue. Hopefully, those hearings will bring out sufficiently why the PSROs are not consistent with the long established American traditions surrounding doctors and their patients.

This morning's Wall Street Journal carried an excellent editorial on the PSRO's and I commend it to the attention of my colleagues:

No Trust For PSROs, A?

We would never argue that any group should be exempt from accountability to the larger society, but we can understand why many doctors at an American Medical Association convention in Anaheim this week are up in arms over a new federal law purportedly designed to monitor the way doctors deal with federally insured patients.

The law, described elsewhere on this page today by Dr. Wuesten, requires the establishment of "Professional Standards Review Organizations" all around the country starting Jan. 1. These PSROs, which will be comprised mainly of doctors, will have the task of second-guessing decisions made by other doctors in treating patients under Medicare, Medicaid and maternal and child health programs.

Their findings will be used by a KEW bureaucracy to establish certain "norms" that doctors would be expected to follow in treating federally insured patients. Such questions as whether some doctors overprescribe or require unnecessary hospitalization will enter into the review and norm-setting process.

While we favor a businesslike administration of federal social programs, the PSRO legislation raises some questions which didn't get adequately asked or answered by Congress. It was attached, by Senator Hart's big (H. Utah), as a rider onto last fall's big and controversial Social Security bill and somehow rode through with almost no public attention. The House did not even hold public hearings on the PSROs.

And yet the law empowers the government, through PSROs, to examine medical records in doctors' offices, not only of federally insured patients but private patients as well. The Association of American Physicians and Surgeons thinks this is an "unconstitutional invasion of a private relationship."

Further, it can be doubted that Congress gave sufficient thought to the cost of all this monitoring and norm-setting. There is no clear picture of how many PSROs there will be but a minimum of 150, and probably considerably more, is likely. The man-hours of doctors who serve on them will be that many fewer man-hours devoted to practicing medicine, not to mention the man-hours that will have to be devoted in doctors' offices to meeting demands for information or justifying decisions.

It might be noted that some 50 million patients and 10 million hospital missions are potentially subject to monitoring and that the proposed norms cover some 350 procedures. It makes you wonder if doctors will have any time left to treat patients.

Finally, the law seems to ignore that a great deal of peer review already goes on in medicine, by state and local medical societies and hospital boards that review decisions to operate and the like. While peer review has been criticized as ineffective a lot of the criticism remains unproved. In Louisiana last December, it was the state medical society that blew the whistle on a KEW-financed private birth control scheme that now is under criminal investigation, which suggests that the public interest may fare at least as well under private peer review as through the good offices of KEW.

Many doctors claim that the PSRO deeper actually was designed to open the medical

profession up for full federal insurance, or, as the AMA once would have termed it, "accidental medicine." Interestingly, the AMA had a hand in the original conception of PSROs, apparently with some notion of displaying flexibility—thus avoiding the kind of pitched battle it lost over Medicare—and at the same time keeping PSROs in the hands of physicians. But a good many physicians are making it clear that they think that was a bad tactic.

It would seem that they have a point. Medicare and Medicaid were a product of the mid-1960s and there is no denying the public support that then existed. But this is 1973 and Americans have seen quite a lot they don't like about federal social programs. There is no certainty they are yet ready for national health insurance and they certainly aren't ready for "accidental" approaches to that end through innocent-looking riders to complex bills in Congress. As to monitoring Medicare and Medicaid, KEW might do well, or so the Louisiana case would suggest, to get better control of its existing auditing system.

Rep. Rarick (D., La.) has introduced a bill to repeal PSROs. It may well be that the public has a bigger stake in repeal than it realizes. At any rate, the issue deserves a better hearing than it got when PSROs were so nimbly written into law last year.

TESTIMONY ON POW'S AND MIAs

HON. C. W. NILE YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 6, 1973

Mr. YOUNG of Florida. Mr. Speaker, yesterday I submitted testimony to the House Foreign Affairs Committee in support of legislation to require a full accounting of our men who are missing in action in Southeast Asia. Though the United States has withdrawn from Vietnam and our POW's have come home, we should not forget the tragic lessons learned during that conflict, nor should we forget that 1,200 men have not been accounted for as yet. We must not back down from our demand for a full and complete accounting of our MIAs and we must not forget that this problem is a daily tragedy for the parents, wives, and children of these men.

Following is the text of my testimony before the committee:

Testimony of Hon. C. W. Nile Young
Mr. Chairman, as a cosponsor of H. Con. Res. 271, I have joined with more than 100 other Members to express my deep concern at the continuing and unresolved problem of our men who are missing in action in Southeast Asia. This is not the first, nor the last, effort I shall make on behalf of our POW's and MIAs. It is imperative for the families of these men and for the integrity and honor of our fighting forces that this problem not be allowed to slide into oblivion.

The question of a proper accounting of our MIAs is part of the larger tragedy which took place for all mankind during the conflict in Southeast Asia. The Communist forces, and most specifically the Government of North Vietnam, repeatedly, consistently, and blatantly refused to abide by the prisoner treatment protocols of the Geneva Convention. The United Nations, the fundamental world body charged with the protection of human rights, stood by helplessly the victim of an avalanche of anti-United States rhetoric. The other signatories of the

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Geneva Convention paid only lip service to their responsibilities, and the forum of world opinion chose only to concentrate on alleged mistreatment of prisoners in South Vietnam.

During my service in the House I have continually sought and supported means to make the Communists abide by the regulations for treatment of POW's set forth in the Geneva Convention, and I have stressed the critical importance of a full accounting of Americans missing in action in Southeast Asia.

In April of this year I was moved by the horror stories of our returning prisoners of war to request of the President that the United States take the initiative in convening a new international convention for the purpose of reviewing agreements relating to treatment of prisoners of war and to provide effective methods to guarantee the enforcement of agreements relative to prisoners of war. I am happy to report that the President responded with positive news. An international meeting on precisely this issue has been scheduled by the Swiss Government (the depository for the 1949 Geneva Convention) for February 18 to April 11, 1974 in Geneva.

Also in April, I formally requested House Armed Services Committee Chairman Edward H. Rostenkowski to have the committee conduct a thorough investigation of the treatment of American held-prisoners by the Communists. I expressed the sincere hope that we all share, that Americans will never again become involved in any military conflict, but also put forward my feeling that an Armed Services Committee investigation could contribute to the assurance that our men would be more adequately protected in any such future eventuality. Moreover, an investigation such as I recommended could reveal the presence of any prisoners of war who had not been previously identified and could provide additional information on those still unaccounted for.

In the wake of our national joy at having our POW's home at last, the problems of their mistreatment and of the more than 1,200 MIAs seemed to be slipping into the background. But I, along with many other Members, was determined not to let this happen. Therefore, on July 31 I joined with more than a hundred other Members of the House to introduce H. Con. Res. 271, expressing the sense of Congress with respect to those men still missing in action in Southeast Asia. This resolution clearly prohibits any further Congressional consideration of aid, trade, diplomatic recognition or any other form of communication, travel, or accommodation with North Vietnam or the Viet Cong until such time as the January 27, 1973 agreements relating to our military and civilian personnel in the missing in action category are complied with.

Furthermore, on September 25th I sponsored H. Res. 761, calling for a full Congressional investigation into the status of our servicemen still listed as missing in action as a result of the Vietnam conflict. This resolution not only calls for an independent Congressional inquiry but also the withholding of any aid to the North Vietnamese government or any government supported by insurgent communist forces in Southeast Asia until there is a full accounting of MIAs. On the same date, I again renewed my request to Chairman H. Rostenkowski by the Armed Services Committee into the whereabouts of the more than 1,200 American MIAs. I noted in my letter that such an investigation would help to end, once and for all, the uncertainty for those families of men still missing as well as to obtain the release of any prisoners who may still be held in Southeast Asia. I am therefore especially pleased to see this Subcommittee break the logjam of Congressional inaction and begin hearings on this im-

portant issue of the Congress resolution. As the world's most powerful nation and as a people who have suffered deeply from the Vietnam conflict, it is incumbent upon us to act responsibly to prevent any further such abuses of prisoners' rights as we saw in Southeast Asia.

That this is not just a problem peculiar to our involvement in Vietnam, has been brought home to us strongly by certain events which took place during the recent Middle East conflict. I am referring, for example, to a formal complaint filed by the Government of Israel with the International Red Cross in Geneva concerning crimes of murder and mutilation committed against Israeli prisoners of war by Syrian military forces on the Golan Heights. In retaking certain areas of the Golan Heights, Israel Defense Forces troops claim to have discovered proof that 26 Israeli soldiers had been murdered in cold blood after their capture by Syrian troops.

If the United States and other free nations concerned with human rights do not take firm and unequivocal stands against such barbarities and bring to bear every ounce of moral, political, and economic power that we possess against the offenders, we are serving notice to aggressors large and small that they can violate the Geneva Convention with impunity and that some of the most fundamental rules of civilization no longer apply.

I cannot urge my distinguished colleagues on this subcommittee strongly enough to take immediate and constructive action on behalf of our missing in action. The Congress must not abdicate its responsibility to our POW's, to the families of the MIAs, and to the men of our armed forces who may face similar trials in future conflicts. If we sweep this problem under the rug by leaving it to the sluggish efforts of governmental agencies, future generations of mankind may suffer the results.

PARTY DESIGNATION IN LOCAL ELECTIONS IN WASHINGTON, D.C. FAVORED

HON. DONALD M. FRASER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 6, 1973

Mr. FRASER. Mr. Speaker, the District of Columbia home rule conference report to be voted on in the House next Wednesday, December 12 provides party designation on the ballots on which the new Mayor and City Council will be elected in the fall of 1974.

That feature was in the committee bill, H.R. 9881 when it was voted out of committee last July by a vote of 20 to 4.

Testimony at the hearings on the bill from February 8 to July 15 was overwhelmingly for party designation. Let me quote from the hearing record.

BOARD OF THREE FAVORS PARTISAN BALLOT
Mr. Walter F. McArdle, president of the Metropolitan Washington Board of Trade voiced the support of business in these words:

These legislators (city council) should be elected by partisan ballot.
We support the election of the chief executive of the District of Columbia on a partisan, city-wide ballot.

COPIES IN FAVOR

The District of Columbia Republican

Party testified in favor of party designation in these words:

We believe the Mayor should be elected in partisan elections. There is no question but the present political parties in the District of Columbia can provide the machinery by which a candidate aspiring to office can best bring his or her views to the electorate.

The League of Women Voters also spoke in favor of party designation as follows:

We support a legislative body broadly representative of the community, elected in partisan elections, some by ward and some at large. The chief executive should also be elected in a partisan election.

ONLY THREE OF FIVE AT LARGE COUNCILMEN MAY BE FROM SAME PARTY

The conference report includes a feature to help keep a minority party's voice on the council. Only three of the five members at large on the City Council may be from the same party.

HATCH ACT PREVENTS CITY MACHINE

An additional benefit of partisan elections is that city employees will not be able to be coerced to collect money and campaign for city officials in order to keep their jobs or get promotions. The Hatch Act gives them that protection, but would not under nonpartisan elections.

All in all, I feel that partisan elections will work well in Washington, D.C.

A CHRISTMAS WITHOUT CHRIST?

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 6, 1973

Mr. CHARLES WILSON of Texas. Mr. Speaker, it was with a good deal of dismay that I read that the annual Christmas Pageant for Peace on the Ellipse will not include a depiction of the Nativity this year. Zealous separatists have convinced the Federal Court of Appeals that to include Christ in Christmas is an "excessive government entanglement with religion," and that such a display would be offensive to non-Christians.

Frankly, I find the scene's exclusion from the pageant extremely offensive, and obviously so do many East Texans who have written to me in the past weeks expressing their strong disapproval of the action.

I would like to take this opportunity to reprint here a few of the letters I have received from my constituents, as well as the letter which I am sending to Rogers Morton, Secretary of the Department of the Interior, which has ordered the removal of the Nativity scene from the pageant.

NEW CANYON, TEX.
Dear Congressman CHARLES WILSON: When I discovered that the Christmas Pageant for Peace in Washington, I must say I was amazed. Can this be true? Will you let this happen? Will you sit idly by and make no effort to prevent it? The very idea! It is the most absurd of all the absurdities in Washington in this year of absurdities and outrage. What is Christmas about if not the birth of Christ? How can there be a Peace Pageant without the Prince of Peace?

THE DISTRICT OF COLUMBIA REPUBLICAN

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edge and understanding of the universe manifested within the last 25 years than ever in the past because of the advances made in space technology. But we also have paid a huge price for all this. We have spent large sums of money in building powerful rockets, developing high energy fuels, designing sophisticated instruments, calculating trajectories in space using computers, producing highly accurate guidance and control systems and doing concentrated research to continuously improve the state-of-the-art.

EMPLOYMENT AND UTILITY

The total money spent around the world on space effort so far must be over \$100 billion. Therefore, it is only reasonable to ask if the money was well spent, if it will help us enjoy our life better in future.

One would certainly ask if we really gained anything in our daily life by spending so much money in developing space technology and if we have any hopes from it for our civilization of tomorrow.

At first look, it does seem that huge sums of money have been wasted just for the glory of putting men on moon, landing unmanned crafts on mars and venus, throwing instrumented satellites in orbits around the sun and the earth. There are many who question the judgment of various governments around the world who have committed billions of dollars for space research when the same money could well be used to improve the lots of ordinary people everywhere right here on earth. No one can justify the expenditures on space effort when there are hundreds of millions of people sleeping hungry every night today.

But if one takes a searching look it becomes immediately obvious that the money has not all been wasted and the space programme has been fruitful to us in many ways. Today, over ten million people around the world are working on jobs directly or indirectly related to the space effort.

This simply means that the space programme opened up over 10 million jobs supporting the livelihood of over 40 million people (assuming an average of four persons in a wage earner's family). New roads and rail lines have been built to transport men, materials, and equipment from one point to another in space effort but these are also being used by the general public.

Besides, the sophisticated technology developed by the scientists and engineers within the space programme is being put to use increasingly in every phase of our daily life. Today, communication satellites relay the world news and messages from one corner to another within seconds. Weather satellites provide us accurate weather data from any part of the world within hours. Many lives have been saved because of advance warning of cyclones, typhoons, tidal waves, snow storms and heavy rainfalls by these satellites.

The satellites are also being used to photograph islands, countries, continents, uncharted mountains, lakes, rivers and seas for a better, more accurate map of the world. This may help in defining international boundaries correctly and precisely.

Apart from this, it will make the tasks of navigation easy around the world. Satellites are being used to detect forest fires and erupting volcanoes. Within a few years, educational satellites will be used to educate the illiterate and backward population in developing nations. It will especially be used to provide information to villages about family planning, birth control programmes, child care, diseases and diseases, cleanliness, ways to control epidemics, economical living, modern farming techniques and agricultural progress in other parts of the world.

ROCKETS ARE SAVING

Many aircraft are now able to take-off from and land on small runways with the aid of rockets. Rocket assisted take-off and landing have especially been recommended for big

and heavy aircraft when longer runways are not available as at airports in old, crowded cities. Various high energy fuels developed for rocket propulsion are already in commercial use by many industries for a wide range of purposes. There are even toys for little children which work on the principle of rocket propulsion.

The multi-legged highly stable robots, which performed manual work so successfully on the moon, have found their use on uneven, mountainous terrain on the earth. The lunar rovers have led to the manufacture of transportation vehicles that run smoothly on desert roads. The efficient solar battery developed to convert the sun's energy into electrical energy in space is also being used for many purposes right here. The guidance system perfected to keep spacecraft right on course during their flights to moon, mars, and venus is now guiding the aircraft and supersonic jets and keeps them on their flight paths with pinpoint accuracy.

The seismograph that records the minutest rumble on moon created by even a small falling rock has led us to employ similar instruments on the earth to get advance and accurate warning of earthquakes and volcano eruptions.

MEDICAL TECHNOLOGY

Space programme has also made a big impact on medical technology. Astronaut monitoring has led to a system for "radiating" a patient's electrocardiogram to doctors while he is being rushed to hospital in an ambulance. In this way, doctors can keep a close tab on hospital-bound heart-attack victims and advise ambulance crew on emergency treatment. In many hospitals, especially in the USA and the USSR, patients' conditions, such as heart beat, blood pressure, pulse rate, temperature, etc., are monitored continuously in a central room, and doctors can keep a watch on all their patients from one central location, instead of visiting them separately. In many cases, patients are even being examined and treated by doctors via remote control circuits. In this case, patients never see their doctors.

Many instruments and helping devices developed for astronauts are also being used for the general public today as, for example, the electrode helmet that picks up brain waves and the light switch that enables a wheelchair patient to steer just by shifting his eyes. Moreover, the highly nutritious compact foods developed for the spacemen are being suggested these days to people with weak digestive systems and can be bought in the open market.

An important contribution of the space programme has been in the area of management. New techniques able to control both engineering and finance to a degree never before achieved in complex, large-scale programmes have emerged; and new procedures to obtain high degrees of reliability and quality control have surfaced. This knowledge is now being applied in the management and operation of various industries and government agencies.

The space programme has also resulted in a new, potentially more beneficial relationship between governments and industry. This has helped many industries to expand and many new ones to get started, with all the help from the government. No doubt, the general public has gained tremendously from it all. A better management means less operational cost for industry, resulting in lower prices for products to the buyer. More industries mean more jobs for the people and more industrial products in the open market, perhaps at even lower prices because of competition. Thus, while we are much better off today than ever before because of technological advances made in the course of our space effort so far, it has a still better promise for tomorrow.

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MOON FACTORS

Very soon telecommunication satellites will be beaming down entertainment and educational programmes in every corner of the world. High energy fuels being developed to further improve rocket propulsion will also become available to industries in the long run, which will reduce their operational cost and result in lower prices of their products to the buyer. In a few decades, rocket planes will be carrying businessmen from New York to New Delhi within hours.

In the distant future, nutritious compact foods, such as those developed for astronauts, may become a way of life solving our food problem here on earth; patients with heart ailments may be sent to the moon to recuperate because their hearts will not have to exert much in the lower gravitational attraction there; and solar energy may be used directly to operate power plants for factories in space.

Factories on moon will require less power because of smaller gravitational field there. Moreover, the sun's heat can be used on the bright side of the moon to generate steam for power plants, while the dark side of moon can be used for refrigeration. This is possible because the surface temperature on the sunlit side of moon is about 250°F and that on the dark side about -230°F. Industries needing vacuum to manufacture their products will also flourish in space, where there is already a perfect vacuum, because power required to produce vacuum will not be needed there, resulting in much lower operational costs for them.

Finally, if the space effort is continued, our future generation might see some day some super-super-villains, super-intelligent and technically "super-advanced" beings from other worlds in the universe, from whom they could gain tremendous medical and technical knowledge which could advance their standards by thousands of years in a short time. In the meantime, space observatories set up in orbits around the earth, on the moon, and at many other locations in the extraterrestrial space will continue to send us accurate and valuable data about quasars, galaxies, stars, planets and their satellites to increase our astronomical and astrophysical knowledge of the universe as a whole.

CONGRESSIONAL HELP FOR OUR MIA'S AND POW'S IN INDOCHINA

HON. JOSHUA EILBERG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. EILBERG. Mr. Speaker, with public and congressional interest riveted on domestic issues such as 1972 political campaign activities and our present energy crisis, the situation concerning Americans still missing in action in Indochina seems to have receded into the background. Along with many of my colleagues in the House and the Senate, I feel strong that the plight of our MIA's must not be allowed to fade into oblivion. With the termination of American combat activities in Southeast Asia, we joyously welcomed home more than 500 returning prisoners of war. But the exhilaration of that event will become tainted if we do not remember those who served but who remain today unaccounted for.

As of December 1, 1,163 American servicemen were listed as missing in action in Indochina. During the past weeks and months, a number of death determina-

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tions have been made by the various military services. However, very few bodies of MIA's have been located and positively identified. The American-operated Joint Casualty Resolution Center is continuing to seek information on the MIA's; yet their efforts have been severely obstructed by the North Vietnamese Government. Although the JCRC possesses detailed descriptions of the circumstances surrounding many of the missing men, it has been denied access to Communist-controlled sections of South Vietnam, Laos, and North Vietnam. Hanoi has even implied that a full accounting of American MIA's would be contingent upon the release of political prisoners held in South Vietnam. Recently, a group of Americans representing the National League of Families of POW's/MIA's returned from Laos after attempting to obtain details on some of the missing men. Although politely treated by government officials, they were not given specific information which might serve to ease their uncertainty.

With these facts in mind, I have cosponsored two resolutions concerning our MIA's in Indochina. House Concurrent Resolution 291 would declare that it shall be the policy of the U.S. Government to cease all consideration of aid, trade, diplomatic recognition, or any other form of communication, travel, or accommodation with the North Vietnamese or the Vietcong until such time that these two parties comply fully with article 8, paragraph B of the Vietnam Peace Agreement of January 27, 1973. In addition, House Joint Resolution 210 would declare that Congress fully supports the President in his demands for full cooperation from the North Vietnamese and the Vietcong in searching for the MIA's.

Further, this resolution would declare that the United States shall request the aid and cooperation of all other governments in demanding that the North Vietnamese and the Vietcong comply fully with the aforementioned article and paragraph of the agreement. It is my shared belief that the people of the United States will not, in any form, support any effort toward providing aid or other amenities to those parties who have not abided by their earlier commitment to cooperate in searching for MIA personnel. As such, I enthusiastically endorse and support all provisions of these resolutions and it is my desire that this subcommittee will give its full consideration to the merits of each.

The responsible Federal agencies and Congress should jointly assume the responsibility of finding out more about our missing men. We in the Congress must take the lead, if necessary. Previously, a House resolution was introduced that called for a thorough and complete investigation by the House Foreign Affairs Committee and the Senate Foreign Relations Committee of ways in which to obtain more information on the MIA's. However, if such an investigation cannot be undertaken, Congress may wish to appoint a factfinding mission to travel to Southeast Asia in a new attempt to learn of the whereabouts and status of each missing man.

The position and prestige of selected

Members of the House and Senate might aid in securing cooperation from the Communist officials in this regard. Earlier this year, the members of the National League of Families of POW's/MIA's required their board of directors to ask all Representatives and Senators to take a public position on the MIA issue by the use of mailings, newsletters, and local newspaper columns and to use all other means at every opportunity to speak out emphatically on the subject. These are positive steps that each Member of Congress may wish to consider.

The issue of the MIA's must be resolved even if it takes longer than we may like. The families of those men missing in action surely deserve and expect a complete accounting by their Government of the status of each missing man. However, today, many families and friends of the MIA's are in doubt about the Government's response to their plight. Some families have become adjusted to the unpleasant fact that their loved ones may not be alive, but their real mental anguish lies in not knowing for certain. Each day can be just 1 more day of doubt and despair. Individual families, national organizations, and State and local governments have petitioned the U.S. Government to do more in determining the fate of the MIA's. Some families and groups have openly expressed deep disappointment at the Government's response to date. Individually and collectively they want forceful and concrete action. Should they ask for less?

Clearly, the time has come for Congress as well as the administration to act constructively in this matter by displaying unity and determination. The Nation owes a special debt to those 1,163 Americans still missing in action in the mountains and jungles of Southeast Asia. It is a debt that can be repaid only by pursuing vigorously the whereabouts and fate of each one.

NASA KNOW-HOW FOR ERDA

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. REGULA. Mr. Speaker, legislation to establish an Energy Research and Development Administration will be reaching the floor of the House of Representatives next week. I am a strong supporter of the Energy Reorganization Act and believe that this bill provides the legislative direction necessary for long-term research and development. Moreover, a congressional anchor—the authorization-appropriation process—will insure that Congress will direct the future course of energy development for this country.

While I do not intend to offer an amendment to this bill, it seems to me that one reservoir of talent and energy has been overlooked. As you know, over the last 2 or 3 years the NASA budget has been cut resulting in the release of numerous well-trained staff and the phaseout of facilities. These facilities

and this staff can be well used by the Energy Research and Development Administration. Accordingly, I have written to the Director of the Office of Management and Budget, Mr. Roy Ash, asking whether it will be possible and desirable to transfer some of the NASA personnel and laboratories to the new Energy Research and Development Administration. Mr. Ash's response is as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, Washington, D.C., December 12, 1973.
Hon. RALPH S. REGULA,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Regula: This is in response to your letter of December 10, 1973, in which you noted that some of NASA's facilities were being closed and that well-trained and very capable staff were being released. You asked whether, in establishing the proposed Energy Research and Development Administration it would be possible or desirable to transfer some of these NASA personnel and facilities to ERDA in order to avoid losing these skills and resources.

I wish to thank you for this excellent suggestion, particularly because I have been concerned for some time about the possible loss from government service of these valuable skills and resources, a loss that seemed unavoidable because of NASA's post-Apollo scaling down.

Let us assure you that immediately upon the establishment of ERDA, OMB will urge the ERDA Administrator to undertake on a priority basis and in consultation with the NASA Administrator a thorough review of all NASA personnel and facilities that might otherwise be released or closed down. At the same time, I do not wish to raise false hopes for the talented people involved. As you can appreciate, such a review should be made in the context of meeting ERDA's scientific and technical requirements and decisions relating to any transfers must be made by ERDA and worked out with NASA. My personal view, however, is that the review will prove fruitful and worthwhile.

Again, thank you for this suggestion and let me express my earnest hope that the House will act favorably and without delay on H.R. 11810 so that we may get on with the urgent business of advancing the state of energy R&D technology to meet the Nation's energy needs.

Sincerely,

ROY L. ASH,
Director.

THE LONG FIGHT TO SAVE A BIG LAKE

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. VANDER JAGT. Mr. Speaker, I am pleased to bring to my colleagues' attention the following report from Limnos magazine on the daily disposal of 67,000 tons of taconite tailings in the waters of Lake Superior by the Reserve Mining Co. The results of the case now being considered in the U.S. district court in Duluth will determine the nature of water quality in the largest of the Great Lakes for decades to come. This article provides valuable background information which will be helpful to anyone who shares my interest in the current litigation:

the New York Jets, only added to the sense of exhilaration.

Almost as memorable as O. J.'s climactic achievement on the field Sunday was the way he shared the spotlight with his teammates. Bringing the entire offensive unit with him to meet the press after the game, he introduced each of the 10 other players personally and identified them as "the cats who did the job all year." It was, indeed, a well-deserved tribute to an outstanding team effort that set a league rushing record for the Bills, and it reflected a spirit that should help this still-young team in its efforts to cap this year's fine over-all record with a shot at the Super Bowl next year.

Much credit must obviously go, too, to Coach Lou Saban, who patiently and skillfully built a team offensive around the remarkably talented O. J., as well as to Ralph C. Wilson Jr., owner of the Bills and the man with ultimate responsibility for their up and down.

Most of all, however, it is an occasion to pay special recognition to a brilliant athlete, one who embodies natural gifts with that great concentration and dedication that is the mark of every true champion: It is equally a moment of satisfaction for Buffalo and Erie County, which have invested both emotion and tax dollars in supporting major-league football here—in large part as a means of advertising this region and building up its image for economic and civic development. The national spotlight trained all this year on the exploits of O. J. and the Buffalo Bills can't help but bring enhanced prestige and promotion for the entire Buffalo community.

As a well-known entertainer would say it: "How sweet it is."

The Buffalo Bills were in the doldrums in 1969, so much so that they had first draft choice. Their pick, naturally, was O. J. Simpson, the phenomenal star of the University of Southern California team who had won the coveted Heisman trophy.

The pickings were lean for a couple of years for O. J. in pro football. Indeed, he despaired and was ready to leave the team, except for the wise counsel of one of Buffalo's finest citizens, Jack Horrigan, former sportswriter who became vice president of the Bills. Sadly, Jack did not live to see O. J. reach the pinnacle Jack was sure he would achieve. Jack died last June after a hard-fought bout with cancer.

Another who counseled O. J. during his lean years in Buffalo was his former coach at USC, John McKay, who retains highest respect for O. J. as a "human being." Following is a recent interview with McKay:

[From the Buffalo Courier-Express, Dec. 17, 1973]

JOHN MCKAY FOR 3 YEARS—McKay (By Warner Reader)

O. J. Simpson was misused, and possibly almost ruined, during his first three professional football years with the Buffalo Bills, says his college coach, John McKay of the University of Southern California.

"I have never been associated with, or even, a player who could dominate a football game as much as O. J. could," said McKay last week. "O. J. can chart the course of almost any game he plays in, if you get the ball to him often enough."

According to McKay, the Bills' reluctance to get the ball to Simpson often enough led to what O. J. calls his "three lost years."

SAUCE, MCKAY REMAINS

John Rauch, who coached Simpson his first two years in Buffalo before resigning before

the 1971 season, didn't believe any player, not even O. J., could dominate his offense. "Having one player carry the load is not my style," Rauch once said. "I couldn't build my offense around one player, no matter how good he was. O. J. can be a good pass receiver, and I expect him to block also."

McKay totally disagrees with this philosophy when he talks about Simpson.

SENATOR MCKAY'S ADVICE

"We happen to think of O. J. as a home-run hitter," said McKay, "and you don't tell a home-run hitter to bunt. We gave the ball to him every chance we got, knowing that sooner or later he would get the home run. It paid off for both him and us."

McKay said O. J. came to him for advice occasionally during the lean years in Buffalo.

"It was clear to me that he was playing for a coach who didn't understand the running game, and wasn't aware that he had the greatest threat in football," McKay added. "I told O. J. not to let the situation get him down, that things would change for the better."

"When I found out that Lou Saban was going to coach Buffalo last year, I told Simpson that was a guy who understands what made up a sound running game, and that with Saban there was no way he could fail to make it big."

It didn't take O. J. long to realize his college coach was right.

DISAPPOINTED AT SABAN

"Lou Saban has inspired me," said Simpson shortly after his first meeting with the new coach last year in pre-season. "He's tough, but he's fair, and there seemed to be a reason for every play he gave us."

McKay's office is cluttered with pictures of O. J. from the 1967-68 glory years at Southern Cal, and McKay admits he will never forget "O. J. the football player."

McKay also will never forget "O. J. the human being."

"I have never been around a man I admired more," McKay remembers. "He was a warm person, the most popular man on campus, and he went out of his way to make friends."

"He wasn't noisy, although God knows he had every right to be loud, boisterous and a little above everybody else. I think so much of O. J. that if he called me right now and said he wanted to talk to me in Buffalo, I'd take the next plane."

ARE WE FORGETTING THE MIA'S?

Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, as the Christmas season and as another year draws to a close, the families of the almost 1,200 men listed as missing in action in Vietnam face still another season of wondering about the fate of their loved ones.

Today, almost 11 months since the peace accord was signed, those who control Communist destinies in Southeast Asia have done little to aid in the search for those men or ease the minds of their families. In many cases they refuse to allow our teams to look for bodies. They have offered us no further help in accounting for the MIA's who seemingly have been swallowed up in the aftermath of the fighting.

It is obvious that the Communist leaders in their callous disregard for humane considerations have no intention of honoring the peace accord which

called for a full accounting of prisoners and missing in action.

Why is it that we hear no voices raised in the Congress in behalf of these unfortunate individuals? Is there no longer concern about what has happened to so many of our people and to their families? Are we willing to let the MIA issue and the hopes of MIA families slowly die on the vine?

I do not want to see the memory of these unfortunate individuals and the hopes of their families relegated to dust-covered files and hidden from the consciousness of a country which owes so much to those who are missing.

I am one of those who would like to see sufficient pressure brought to bear to insure full disclosure from the Communists about American MIA's and freedom to search without restrictions in any areas where it is felt MIA's might have disappeared. Yet there is little likelihood that this can be accomplished. The Communists ignored diplomatic efforts. The Congress has stripped the President of any power he may have had to deal with problems in Southeast Asia by taking from him the authority to use the military forces in America's interests.

Needless to say, the United States must continue to express in the strongest terms its determination that these men be accounted for when they are negotiating with Communists, for there should be continued insistence on information and help on the MIA question, and we Congressmen have not lost our voice. We should continue to speak up at every opportunity until the Communist world realizes that the American people will refuse to have this subject relegated to oblivion.

THE ARMED SERVICES NEED MORE NOT FEWER RESERVISTS

Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I have been reading disturbing reports in various quasi-official military publications, put out by service-oriented organizations, which are deeply concerned with the defense posture of this great Nation of ours. I speak particularly of the National Guardsman and the Officer which are the official publications of the National Guard and Reserve Officers Associations respectively. Also, the Army Times has recently carried similar stories noting that, in the near future, drastic personnel cuts in the Department of Defense will include reductions in the Army National Guard and Army Reserve. It is absolutely incredible to me that at a time when everybody from our Commander in Chief on down through the Defense Establishment has rationalized deep cuts in our Active Forces that people within the Pentagon would even consider a decrease in the Army Reserve components. In various public statements and in advancing the total force concept, it has been repeatedly emphasized that the Reserve forces are to have increasing responsibility for national security. It should be clear to us

governments. Health education and all other social services must become involved."

In calling for an end to all discrimination against women, the forum asked specifically for the full participation of women in the formulation and implementation of both population and development policies. The representatives at the forum said they would use their influence on local, national and international levels to encourage other women to become active in these fields.

I find the recommendations made by the forum strong and far-reaching, and I share the hope of the participants that their conclusions will be incorporated into the text of the World Population Plan of Action, the most important item on the agenda of the Bucharest Conference.

The population explosion is surely one of the greatest dangers the human race has ever encountered, and steps toward solution are urgently required. So I, for one, am glad that women are at long last being involved in the search for solutions. And I hope that among the immediate byproducts of the First International Forum on the Role of Women in Population and Development will be the inclusion of women in all delegations to the World Population Conference.

This forum was funded in part by the U.N. Fund for Population Activities and in part by the U.S. Agency for International Development. This kind of interest and activity is in line with my amendment to the AID bill urging greater attention to the important role of women. The full integration of women in the development process, including work at policy levels as well as the grassroots, is essential for improving the quality of life in many developing countries.

THE MISSING IN ACTION

Mr. STEWART. Mr. President, I want to take a few minutes today to review the efforts—so far, largely frustrated—to secure an accounting for Americans missing in action in Southeast Asia. This problem has troubled me as I know it has troubled many Members of the Senate.

In early 1972, I directed the staff of the Senate Armed Services Committee to keep a close watch on POW-MIA developments. That was done, first through the happy period when American POW's were being returned and, later, when it became apparent that no progress was being made in securing an accounting for MIA's.

Early in December 1973, I sent a member of the Armed Services Committee staff to Southeast Asia to get firsthand information on MIA problems and other problems. He conferred with U.S. officials in the field, who are charged with searching for graves and crash sites, and he conferred with our people who are charged with negotiating arrangements so that searches can proceed.

Our staff member also met privately with negotiators for the Vietcong—the PRG, the North Vietnamese, or DRV—and with a spokesman for the Communist Pathet Lao in Laos. I have since had

an opportunity to confer with him about the MIA situation.

My information on the problems encountered is wholly in line with the state of affairs described in the testimony of Government witnesses before the Senate Foreign Relations Committee on Monday, January 28 last. The picture is a sad one, with only an occasional glimmer of light on the horizon.

MCKAY'S ADVICE

It should be understood that the Paris agreement, which led to withdrawal of U.S. troops from Vietnam, stated in article 8(B) that:

The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action.

Further, the protocol to that agreement which deals with return of prisoners, provides, in article 10(A), that:

The Four Party Joint Military Commission shall insure joint action by the parties in implementing Article 8(B) of the Agreement. When the Four Party Joint Military Commission has ended its activities, a Four Party Joint Military Team shall be maintained to carry on this task.

Under these authorities the United States prepared—and is presently waiting—to conduct searches, repatriate remains and make positive identification of the missing. Able, highly motivated men—many of them volunteers—have been assigned to units which are trained to go anywhere in Southeast Asia—no matter how difficult the terrain—to perform these tasks.

Unfortunately, however, the Four Party Joint Military Team—which succeeded the Four Party Joint Military Commission, as provided in the protocol, has been unable to agree on procedures which would admit U.S. search teams to North Vietnam and Vietcong-controlled portions of South Vietnam. In those Communist-controlled areas are about 95 percent of the sites which are to be investigated.

Since the areas of Laos controlled by the Pathet Lao and North Vietnamese have also been barred to U.S. search operations, the present impasse has developed. U.S. searches are ready to go everywhere but they are not permitted to go anywhere—except within the increasingly unproductive government-controlled areas of South Vietnam where search operations continue.

In the twice weekly meetings of the Four Party Joint Military Team in Saigon, the resourceful U.S. delegation, with South Vietnamese support, has proposed a series of initiatives, including site searches in North Vietnam and in Vietcong-controlled areas of the South aimed, in the language of the protocol, at "implementing article 8(B) of the agreement."

But North Vietnamese negotiators, followed by the Vietcong representatives, have made all progress on MIA's dependent on solution of problems outside of the

scope of article 8(B) and beyond the purview of the Four Party Joint Military Team. Their discussion has become a propaganda litany featuring allegations of peace violations, land-grabs, threats, and so forth, none of them pertinent to the responsibilities assigned the Four Party Team.

The impasse is, therefore, not just a negotiating stalemate but a basic and serious deadlock, and it has occurred in the only four-party forum which is still in existence under the terms of the Paris agreement.

To make matters worse, an unarmed U.S. search team, operating near Saigon, in government-controlled South Vietnam, in December, was ambushed—apparently by the Vietcong. An unarmed American was killed while in the process of signaling that he planned no resistance. A South Vietnamese was killed and several were injured. This operation had been announced, in advance, to the Four Party Joint Military Team, and all parties had been invited to be present.

THE PROBLEM NOW

That is the situation as it stands. Mr. President: Almost 1,200 military men are currently listed as missing—500 of whom are in fact missing, are in a special category. They were classified as prisoners but were not returned; last February when our POW's were repatriated from North and South Vietnam.

The 66 were classified as prisoners because there was "evidence" in photographs, broadcasts, news accounts, and the like—to indicate that they were alive in enemy hands. Like all the others, no information has been forthcoming about these men and their fate is wholly unknown.

In addition, there are more than 1,100 dead in the war zone of Southeast Asia whose bodies have not been recovered and returned to their families.

I am sorry, Mr. President, that the families of the missing—through the League of Families—have seen fit to talk of the "apparent abandonment" of these men by their Government. During the Christmas season an American died in this effort, as I have noted, and I would have liked to avoid recriminations of this sort.

On the other hand, Mr. President, I can and do sympathize with all of the families. They are well aware of the deadlock I have discussed. They have been waiting a year, and they are no closer to an accounting which would end the uncertainty for some of them.

They are aware, as we are, that the terms—the other terms—of the Paris peace agreement have been violated on both sides. They are also aware, however, as we sometimes forget, that these provisions with respect to MIA matters were clearly designed to operate independently from other provisions.

For example, the question of "military personnel and foreign civilians" was dealt with in a separate article from the one which deals with indigenous civilian prisoners. The Four Party Joint Military Team—and the Four Party Commission which preceded it—were charged only with the implementation of the MIA article, article 8(B).

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In short, the MIA families have good reason to feel that they have received less than they were promised when the peace agreement was signed in Paris.

THE DAVIS ALIAS

Recently—in the last couple of weeks—there has been a hopeful development in this grim MIA situation. On March 8, Hanoi authorities permitted a U.S. team to retrieve the remains of 12 Americans who were said to have died in captivity and who were buried in graves near Hanoi. On March 13 the remains of another 11 Americans were turned over to a U.S. team.

These remains could have been repatriated a year ago. They should have been repatriated then. We should not delude ourselves that a wave of humanitarian good feeling has now swept Hanoi so that a new era of cooperation and civility is at hand.

A small step has been taken. That is all. A step is a step, however, and we should be thankful for it and make every effort to see that one step leads to another. It seems to me that we should search out new avenues—new approaches—both official and unofficial, as we try to move Hanoi toward further progress toward an MIA accounting.

As Vice President Ford recently reminded us, Mr. President, 13 nations—in the presence of the Secretary General of the United Nations—finally met in Paris, and in effect guaranteed the peace agreements which had been signed in late January. The accord, signed in March, provided that the International Conference on Vietnam can be reassembled on the request of six signatories even if North Vietnam dissents.

With violations of the peace agreement a daily occurrence, and with this matter of an MIA accounting a particular national interest, I would like to know whether consideration is being given to an attempt at reassembling that conference? Even if the reassembled conference failed to end all the violations of the agreement in Vietnam and restore peace there, it might eliminate the barriers to an MIA accounting.

I would like to see all such steps taken, within the various documents and accords to curb violations of the agreement and expedite the accounting for MIA's. Obviously, we should insist that the North Vietnamese and Vietcong live up to their commitments, and we have a special interest in those provisions which apply to MIA's.

But I want to say, Mr. President, that I think the conduct in this matter of the North Vietnamese and the Vietcong—the Democratic Republic of Vietnam—DRV—and the so-called Provisional Revolutionary Government—PRG—goes beyond a violation of 4-nation agreement and 12-nation accords. It is conduct which violates the canons of behavior which one nation exhibits toward another in the international community, even when they have been engaged in hostilities with one another.

North Vietnam and the Provisional Revolutionary Government loudly assert their right to equal treatment in the community of nations. Yet they have been bartering in bones. Until recently,

they were holding dead bodies for ransom. They are preying on the hopes and fears of families, apparently in a ghastly determination to force some further concession from our Government.

As long as North Vietnam and the Vietcong refuse to cooperate fully in an MIA accounting, MIA families—and many other Americans—will continue to believe that some of the "missing" are, in fact, still alive and imprisoned in the Communist-controlled areas of Southeast Asia.

Mr. President, until those bodies are returned—as many as can be located—until those bones are repatriated; until the MIA families are given all data by the North Vietnamese and Vietcong which might help in an MIA accounting, I think we should set on the assumption that they have violated the unwritten rules which govern the conduct of nations in their dealings with one another. I think we should proceed on that basis.

We are all well aware that critics, in all walks of life, all over the world, sharply attacked the United States for its role in Vietnam while our men were fighting there. Now our former adversaries there are refusing to carry out their obligations to us under the agreement which got our forces out—obligations which are no more than the humane post-war civilities which one nation has always expected from another in such circumstances.

I think we should pursue the North Vietnamese and Vietcong, around the world, at every opportunity, with this shabby record. This is the kind of public affairs campaign in which many Americans can participate in the course of their day-to-day activities.

Let me quickly say that I do not mean a public relations campaign, in the usual sense, with speeches, advertisements, rallies, and the related trappings. I am suggesting that we actively pursue the North Vietnamese and Vietcong with this evidence of their uncivilized conduct.

I am suggesting that no international leading agency—no bank or group of banks—should be allowed to consider investment in Southeast Asia without being reminded of this conduct by the North Vietnamese and Vietcong with respect to MIA's.

I am suggesting that no trade conference, trade fair or commercial conference should proceed without receiving a similar reminder.

I am suggesting, as a lawyer, that no international conference of lawyers—or doctors, or business executives, or accountants, or labor officials, or journalists—should pass without being reminded of the record of North Vietnam and the Vietcong in meeting MIA commitments.

I am suggesting that no international church convocation, of whatever denomination, should be allowed to adjourn without U.S. delegates bringing this MIA matter to the attention of the assembly.

And, of course, I am suggesting that our official spokesman give a similar and forceful reminder in every international forum in which the U.S. Government is represented—including a reconvened International Conference on Vietnam if that is feasible.

EXCERPTS

While I feel strongly about this problem, I do not want to appear unreasonable about some of the specifics involved. I am not saying that all the plans we have made to speed an MIA accounting must be followed in every detail as U.S. authorities have planned them.

Considering the current status of the Vietnam fighting, it may be unrealistic to think that U.S. teams—even unarmed U.S. teams—would be permitted to conduct searches now in North Vietnam and the Vietcong-controlled areas of South Vietnam. Certainly the South Vietnamese are not going to give the North Vietnamese and Vietcong full visitation rights to cemeteries in areas they control.

However, this need not mean that no searches will be conducted. The good offices of international organizations such as the Red Cross could well be utilized to expedite location of graves and, especially, to repatriate the remains already located.

Further, the North Vietnamese have indicated that they have certain information—ID. cards, uniforms and identification materials of that sort—on some of the men who died in Vietnam. That material could help and the uncertainty for some of the MIA families, and it should be provided. Spokesmen for the Pathet Lao, in Laos, have said similar information will be made available after the long-expected coalition government is formed there.

By whatever means—through whatever channels—the location and repatriation of remains should proceed and all available information should be provided. We should be reasonably flexible with respect to the methods by which the North Vietnamese and Vietcong carry out their dual responsibilities, under the agreements and as members of the world community.

But we should lose no opportunity to tell the world as long as these dual responsibilities of civilized society have not been met.

THE ENERGY CRISIS IN GERMANY

Mr. CURTIS. Mr. President, late last year I had the opportunity to have a most interesting meeting and discussion with Dr. Franz Josef Strauss. As the parliamentary spokesman on financial matters for the CDU/CSU parties in West Germany, his views of contemporary world problems merit special attention. Having served with distinction in several previous cabinets in Germany, Strauss speaks with particular authority on problems of governmental policy. Recently, in a speech before the German Bundestag, Dr. Strauss dealt extensively with the energy crisis in Germany and the failure of the Brandt government to effectively cope with the problem. He pointed out quite well the need for nuclear energy development. Also he noted the inevitable reduction of fuel supplies if the government attempts to maintain through controls artificially low price levels. Since the energy shortage is not a uniquely German or European phenomenon his remarks have real importance for Americans attempting to

MISSING IN ACTION IN SOUTHEAST ASIA, 1973

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HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY POLICY AND SCIENTIFIC DEVELOPMENTS

United States House of Representatives

COMMITTEE ON FOREIGN AFFAIRS

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

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Indochinese or from other countries under French rule at that time. According to French sources, some 20,000 Indochinese personnel were not released, with the majority probably inducted into the Viet Minh armed forces.

There were also some instances of prisoners remaining in North Vietnam "voluntarily." For example, a group of 30 French military personnel returned to Marseilles in 1962, having remained in Hanoi since 1954. Their return to France was announced by North Vietnam as being the result of negotiations between the DRV and France. North Vietnam described the men as "soldiers who had surrendered." When the men arrived in France (with wives and children) they were court-martialed as deserters. The implication is that their "surrender" and long stay in North Vietnam were regarded by the French as voluntary.

Another category is that of personnel of other nationalities, primarily European and African. The Geneva Agreement provided that POW's should be enabled to return to their country of origin. Hanoi sent a number of Eastern European soldiers to their homes in Poland, Hungary, and Czechoslovakia. Since many of these soldiers had left those countries out of opposition to communist regimes, this was obviously unfortunate for them. However, this result was not inconsistent with the 1954 Agreement.

Other groups apparently chose to stay in North Vietnam. For example, a group of over 100 Spanish soldiers stayed in North Vietnam rather than return to Spain, possibly because of opposition to Franco. These men married Vietnamese wives and came to public attention when they returned to Spain in 1967. Several hundred Moroccans who remained in North Vietnam similarly returned home in 1971.

Authoritative French accounts of this tragic period reveal serious mistreatment of French prisoners of war as well as concern over the discrepancies between the numbers of French Union Forces presumed captured and the final number of men released. Nonetheless, it is the opinion of French officials that all living French prisoners of war were released.

Thank you, Mr. Chairman.

Mr. ZABLOCKI. Thank you, Mr. Huber.

The committee would like to advise the witnesses that we hopefully expect to allow each witness about 10 minutes. That will permit us to hear reports from the executive branch witnesses on the current status of the MIA's.

Our next witness is Congressman Benjamin A. Gilman, representative from New York, and a member of the Foreign Affairs Committee.

Mr. GILMAN. I would like to defer my testimony.

Mr. Brooks has been delayed in arrival and I would await the opportunity of his arrival if you would permit me to hold back.

Mr. ZABLOCKI. Congressman Montgomery was scheduled next but he has not arrived.

Congressman McEwen? He has not arrived yet either.

This puts our schedule out of kilter.

All right, we will hear the executive branch, Mr. Frank A. Sieverts, Special Assistant to the Deputy Secretary of State for the Prisoner of War and Missing in Action matters.

He has appeared before this committee many times and we are looking forward to his testimony this morning.

Mr. Sieverts. Thank you, Mr. Chairman.

Mr. ZABLOCKI. We will also call to the witness table, as we did in the past, Dr. Roger Shields, Assistant to the Assistant Secretary of the Office of International Security and Director of POW/MIA Affairs in the Department of Defense.

STATEMENT OF FRANK A. SIEVERTS, SPECIAL ASSISTANT TO THE DEPUTY SECRETARY OF STATE FOR PRISONER OF WAR/MISSING IN ACTION MATTERS

Mr. SIEVERTS. I listened with interest to Congressman Huber's statements, and I appreciate the opportunity to appear again before the subcommittee to report on our continuing efforts to account for our missing in action personnel in Indochina, and to comment on the House concurrent resolutions expressing the sense of Congress on this serious subject.

Let me say at the outset that the Department of State fully shares the concern expressed in the past by this subcommittee, and by the many Members of the Congress who have spoken on this subject or submitted resolutions, about the Communist side's refusal to provide information on our missing men.

It will soon be a year since the signing of the Vietnam agreement on January 27, 1973, and 9 months since the last POW's were released. The communist authorities have failed to account for a single one of our missing men since that time.

My colleague from the Defense Department, Dr. Shields, will speak on the activities of the four party joint-military team, which has responsibility for this subject under the Vietnam agreement, and on the Joint Casualty Resolution Center, which has the mission of searching for our missing men in Southeast Asia.

My testimony will concentrate primarily on the POW/MIA situation in Laos.

I will also discuss the subject of missing journalists and other civilians, and will comment on the House concurrent resolutions that are before this subcommittee.

Before examining the situation in Laos, I would like to report that the International Conference of the Red Cross meeting in Tehran, Iran, on November 14 adopted a resolution reaffirming international concern about the accounting for the missing and dead in armed conflicts.

The American Red Cross and U.S. Government delegations to this conference took the lead in winning support for this resolution, which was approved unanimously. We have heard from some of our returned POW's that a resolution on treatment of prisoners of war adopted by the International Red Cross Conference in 1969 may have been an important factor influencing the North Vietnamese to improve the treatment of our men at that time.

We can only hope that this new resolution will have a similar effect on the Communist authorities responsible for accounting for our missing men.

I would be glad to provide the text of that resolution for the record of this hearing, with the text of the statement by Dr. Frank Stanton, chairman of the American National Red Cross delegation to the 1973 International Conference of the Red Cross and former president of CRS-TV, introducing the resolution at the Tehran Conference.

Mr. ZABLOCKI. Without objection, the resolution and Dr. Stanton's statement will be made part of the record at this point.

[The resolution and statement follows:]

RESOLUTION ON ACCOUNTING FOR THE MISSING AND DEAD IN ARMED CONFLICTS,
ADOPTED UNANIMOUSLY BY 22D INTERNATIONAL CONFERENCE OF THE RED CROSS,
NOVEMBER 14, TEHRAN, IRAN

The 22nd International Conference of the Red Cross,
Recognizing that one of the tragic consequences of armed conflicts is a lack
of information on persons who are missing or who have died, including those who
died in captivity, and

In conformity with the humanitarian traditions of the Red Cross and with the
spirit of the Geneva Conventions of 1949,

CALLS on parties to armed conflicts, during hostilities and after cessation of
hostilities, to facilitate the disinterment and return of remains, and to provide
information about those who are missing in action, and further,

CALLS on parties to armed conflicts to cooperate with protecting powers, with
the ICRC and its Central Tracing Agency, and with such other appropriate
bodies as may be established for this purpose, including National Red Cross
societies, to accomplish the humanitarian mission of accounting for the death and
missing, including those belonging to third countries not parties to the armed
conflict.

REMARKS BY DR. FRANK STANTON, CHAIRMAN OF THE AMERICAN RED CROSS DELE-
GATION TO THE INTERNATIONAL CONFERENCE OF THE RED CROSS, NOVEMBER 8-15,
1973, TEHRAN, IRAN, INTRODUCING THE RESOLUTION ON ACCOUNTING FOR THE
MISSING AND DEAD IN ARMED CONFLICTS

The search for information about those who are missing during and after
armed conflicts is one of the most difficult responsibilities associated with the
name of the Red Cross. The problem is present in the aftermath of virtually every
armed conflict: We all recall pictures of relatives standing at train stations, or
at docks, as prisoners of war returned from captivity, with signs asking "Does
anyone have information on my son?" or father or husband, as the case may be?
The ending of armed hostilities is always welcome—but for the families of the
missing it is a time of special difficulty. The certainty of knowing a loved one has
died would seem preferable to the drawn-out anguish of not knowing the fate of
one who is missing in action.

The Red Cross has a natural and traditional role to play in resolving this
humanitarian problem. For over 100 years, information bureaus organized by the
Red Cross have helped find and exchange information on those who died in cap-
tivity and others missing in connection with armed conflicts.

The purpose of the resolution we have joined in proposing is to remind the
parties to armed conflicts—whatever the circumstances and wherever they may
be—of the importance of this humanitarian problem, and to call attention to the
role of the national societies, the ICRC, and the tracing agencies and the protect-
ing powers in resolving it. The resolution calls on parties to armed conflicts to
help locate and care for the graves of the dead, to facilitate the disinterment and
return of remains, and to exchange information about those who are missing.

It applies equally to soldiers and civilians, including, for example, journalists.
This resolution covers persons of all parties—including those not parties to the
conflict.

These tasks are traditional responsibilities of the parties to armed conflicts—
and it is a Red Cross tradition to help resolve them. There can never be 100
percent success. But there should be recognition of the humanitarian obligation
of parties to armed conflicts. I hope this conference will support this resolution
unanimously.

The resolution is sponsored by the governments of Denmark, Mexico, the
Netherlands, Norway, Pakistan, and the United States and the Red Cross So-
cieties of Australia, Brazil, Canada, Ethiopia, the German Democratic Republic,
Great Britain, Iceland, the Netherlands, Pakistan and the United States.

Mr. STEVENS. Two agreements and a protocol govern the return
of prisoners of war and accounting for the dead and missing in Laos.

Under the Vietnam Agreement of January 27, 1973 we have held
North Vietnam responsible for the release of all American POW's held
throughout Indochina.

Pursuant to that agreement, the Communist side provided lists of
American prisoners in three categories: North Vietnam, the PRG,
and Laos.

Lists for North Vietnam and the PRG were given to U.S. officials
in Paris on January 27. Names of nine U.S. prisoners listed as
prisoners of the Lao Patriotic Front (the Pathet Lao) were given
to U.S. officials by North Vietnamese officials in Paris 5 days later,
on February 1.

That list was smaller than we had been led to expect by previous
statements by Pathet Lao officials, and American officials told the
North Vietnamese that we did not accept it as a complete list of
Americans captured in Laos.

The nine men on that list were released in Hanoi on March 28, vir-
tually the last prisoners released from Communist captivity. Most of
them had been held in North Vietnam during most of their captivity.

The Agreement on the Restoration of Peace and Reconciliation in
Laos, signed by the two Lao parties on February 21, 1973, further
spelled out responsibility for the release of prisoners and accounting
for the missing.

Article 5 of that agreement reads as follows:

Both Lao sides will return to each other all persons regardless of nationality
that were captured during the war, including those imprisoned for cooperating
with the other side.

Their return will be carried out according to the procedures set up by the two
sides, and, at the latest, must be completed within 60 days following the estab-
lishment of the Provisional Government of National Union and the Joint Na-
tional Political Council.

After all those who were captured have been returned, each side has the duty
to gather information on those missing during the war and report the informa-
tion to the other side.

From the day of the release of the February 1 list, and before,
senior American Embassy officials in Laos have made clear to the
Communist side the importance we attached to the release of any
remaining American prisoners and the fullest possible accounting
for the missing.

LPF officials with whom our representatives met took the position
that prisoner of war and missing in action questions could not be
addressed until the protocol implementing the February 21 agreement
was agreed to and signed.

Consequently, our Embassy representatives worked to speed the
signing of that protocol and to ensure that constructive POW/MIA
provisions would be included in it.

Article 18 of the protocol signed September 14 by the two Lao
parties includes a number of specific provisions on this subject. It
reads as follows:

A. The return of all persons regardless of nationality who were captured and
imprisoned for cooperating with the other side during the war will be accom-
plished in three stages and completed at the same time as the withdrawal of
foreign troops and military personnel.

B. The return of prisoners at each stage from each side will be reported by
number of persons, location, and time to the Joint Central Commission to
Implement the Agreement (JCCIA) 48 hours in advance.

C. Within 15 to 30 days, counting from the date of signing of this Protocol,
each side will report the number of those captured and imprisoned to the JCCIA,
indicating nationality and whether military or civilian, together with a list of
names of those who died in captivity.

D. After the return of the prisoners is completed, each side must report as quickly as possible to the JCCIA information it is able to obtain about persons missing during the war regardless of nationality.

E. The return of those captured and imprisoned during the war and the gathering of information that each side will submit about the persons missing during the war is the responsibility of the JCCIA. When both sides in the JCCIA believe it necessary, they may request assistance from the International Control Commission.

The language of article 18 calls for the release of all prisoners "regardless of nationality" captured and held in Laos.

This would apply to Lao personnel, to other Indochinese, and, of course, to any Americans.

The release of prisoners is to take place in three stages and be completed at the same time as the withdrawal of foreign troops and military personnel, which is specified elsewhere in the protocol as 60 days from the date of formation of the coalition government.

The composition of the coalition is also spelled out in the protocol, but the 60-day clock for prisoner releases does not start until the coalition is actually formed, which has not yet happened.

Paragraph C of article 18 provided that within 15 to 30 days from the date of signing of the protocol (September 14) each side was to report the number of those still held, with indication of their nationality and status, together with the list of names of any who died in captivity.

This was the shortest time period for implementation specified in any part of the protocol, and the only one starting with the date of signing. Unfortunately, the Pathet Lao have simply disregarded this provision.

Article 18 further states that information about persons missing during the war should be reported "as quickly as possible" * * * after the return of the prisoners is completed."

The information is to be reported to the Joint Central Commission to Implement the Agreement (JCCIA), composed of representatives of the two sides. The JCCIA held its first formal meeting November 23, and we have drawn some encouragement from the fact that the LPF representative at that meeting reaffirmed his recognition of the obligation to release prisoners and account for the missing and dead.

The JCCIA may, by mutual agreement, request assistance from the International Control Commission (ICC) for Laos. It has not so far done so.

It must be noted, however, that the Lao Patriotic Front has repeatedly stated, publicly and directly to senior U.S. officials, that there are no more American prisoners captured or held in Laos—with the exception of a civilian, Emmet Kay, a pilot for Continental Air Services, Inc., whose plane went down in Northwest Laos May 7, 1973.

They have continued to describe the nine names provided February 1 as the total list, reaffirming this position following the signing of the September 14 protocol.

Mr. Kay's capture was confirmed by LPF authorities soon after it took place, and letters from him have been received by his wife, who resides in Vientiane.

Our Embassy has of course, pressed repeatedly for his release, but the LPF has said this must await further implementation of the pro-

col—which suggests it will come in the 60-day period after formation of the coalition.

The International Committee of the Red Cross (ICRC) delegate in Vientiane has also tried to intervene on Mr. Kay's behalf, also to no avail.

Although U.S. officials in Laos have pressed the Communist side to allow search teams from our joint casualty resolution center to visit crash and grave sites in Laos, no provision to this effect was contained in the Laos agreement or protocol.

We have explained the peaceful, open, and humanitarian mission of the ICRC, in the hope that the Communist authorities would permit our search teams to visit at least selected crash and grave sites, so far to no avail.

Our representatives have also provided the Communist side with a detailed listing of our POW/MIA's in Laos, including those listed as dead whose bodies were not recovered, with the request for information on these men.

We have called particular attention to the cases of men who were previously acknowledged as captured in Laos, or for whom there are indications that they survived shootdowns.

Two of the most obvious cases are Air Force Lt. Col. David Hrdlicka, whose capture May 18, 1965 was openly confirmed by the Pathet Lao, and the American civilian, Eugene Debruin, of Air America, also confirmed as a prisoner following his capture September 5, 1963, who was known to survive as recently as 1966.

We continue to hope that the lists and information we have provided will help convince the LPF to provide additional information on our missing men.

As is clear from the foregoing, our representatives in Vientiane have maintained continuing pressure on the communist side on this subject.

For example, when it became clear that the Communist side was ignoring the 30-day period specified in the protocol for provision of numbers of prisoners and names of those who died in captivity, our Embassy called a Pathet Lao representative to make clear the importance we attached to prompt and full compliance with this provision.

We noted that the Government side was compiling data on prisoners it held and on those who died in captivity and urged the Pathet Lao to do likewise, pointing out that the protocol gave first priority to this subject and did not link it to the formation of the coalition Government.

The Pathet Lao representative, however, rejected this approach and said no information would be forthcoming until the JCCIA was constituted and the coalition Government was formed.

On the question of ICRC access to Laos, the Pathet Lao representative flatly stated that no outside element could concern itself with POW/MIA's in what he described as the "liberated zone."

He also rejected our suggestion of a possible role for the ICC or the ICRC in crash and grave site inspections.

The vast majority of crash and potential grave sites in Laos are located in areas that are under control of North Vietnamese forces.

Mr. Wolff. One final area, that is the area of Laos. I know you mentioned it in your statement, however it seems fertile area of our being able to get some resolution of a goodly number of our people whose status still is in question.

They now have, whatever it is, a coalition government, or whatever you call it, but the fact is the Pathet Lao—you mentioned North Vietnamese—but the Pathet Lao have not been cooperative, is that correct?

Mr. Sieverts. That is correct but, as I indicated, we still have some further steps in the implementation of the Lao agreement and protocol.

The coalition government has not been formed yet, and the agreement provides that must take place before some of these things happen.

The time schedule of this I know concerns and puzzles many of us. All I can say is our officials have worked consistently and I might say very adroitly in the Laos situation to convince the parties to include provisions on this subject in their agreement and protocol, and to implement them as rapidly as possible.

We can't say how much we will get, we don't know. They are being reserved and negative in their statements on the subject. You can be sure we are on top of this and will get all they have to give us.

Mr. Wolff. We have had no POW's returned from Laos as I understand it.

Mr. Sieverts. In a sense that is correct. There were nine Americans and one Canadian released in Hanoi who were described by the Communist side as having been prisoners of the LPF.

In most cases they were captured in Laos but were moved quickly to North Vietnam. There has been no indication of Americans captured in Laos still in Laos. They were released in North Vietnam.

Dr. Shields. You will recall during the repatriation that we had one of our snags at a point in time when the North Vietnamese said they had released every prisoner and we reminded them of those who had been identified as captured by the Pathet Lao.

We stated we would talk to anyone, but would not withdraw our troops until those men were released.

We talked to the Pathet Lao because they had nominal control and the position was maintained that those men were held under Pathet Lao control.

Mr. Wolff. Thank you.

I want to congratulate you on your work in this job; I am sure you will continue in your efforts.

Mr. Zablocki. One final question, in view of the colloquy between Mr. Sieverts and Mr. Wolff, and I would have to direct the question to Dr. Shields.

Does the U.S. Government have any evidence to indicate that any of our MIA's may be alive?

Dr. Shields. Mr. Chairman, we know, of course, of the two civilians that Mr. Sieverts has mentioned, one in South Vietnam and one in Laos, and that they are alive.

We have information that shortly after these men became missing, at prisoners in the case of Lieutenant Colonel Hrdlicka and Com-

mander Dodge, that some of them survived the initial incident and were indeed captured.

In most cases this goes back a number of years, 1965 or 1966 and we have heard nothing since that time. The most we can say today is that those men were alive, some definitely captured and the other side knows what happened to them.

If the men are not alive today, we certainly should receive information about what happened. If they are dead, we should receive the remains.

Mr. Zablocki. The number is how many?

Dr. Shields. Today I believe we carry 57 men as prisoners of war, and I can check that for the record.

Mr. Zablocki. Would you do that?

Dr. Shields. Yes; I will.

A number of those have been identified as having died in captivity. We have not changed their status as a result of the information from the other side, and these men are still carried as prisoners of war by the military services.

So the number of men who might actually be alive is unknown. And I might add with regard to some of the missing that we have good reason to believe some of those carried in a missing status also survived the initial incident, and what happened afterwards is unclear to us at this time. But certainly a large number of men can be reported on by the other side.

We should be able to receive information one way or the other as to what happened to them.

Mr. Wolff. Will you yield, Mr. Chairman?

Mr. Zablocki. Yes.

Mr. Wolff. I understand there are some 60 in that status.

Dr. Shields. That is incorrect, Congressman Wolff. I have the figures on that. I can give you a good figure on that now. We carry 59 men today as prisoners of war. A number of men we carried as prisoners of war were reported as having died by men who returned, and, in some cases from Dr. Kushner, an Army doctor, reported these men as having died.

Based on that evidence and testimony, the status of these men was changed.

Mr. Zablocki. I have one other question, Dr. Shields. Is the Defense Department even entertaining the thought that there is a point of diminishing returns on the MIA's? For example, has DOD set a target date beyond which the efforts of our Government will no longer be exerted on behalf of the MIA's?

At the moment I don't believe that is a good question to ask. I find it difficult to believe that Defense would even consider doing that.

Dr. Shields. We have no intention of doing that, we send our best qualified men to the JCRC. We are continuing our efforts within the military services and the Defense Department and anticipate we will renew those efforts, and, if anything, augment them rather than let them diminish.

Mr. Zablocki. Congratulations and thank you, gentlemen. I am pleased to call on the Honorable G. V. "Sonny" Montgomery, a tireless worker on behalf of POW's and MIA's.

MISSING IN ACTION IN SOUTHEAST ASIA

April 10, 1974.—Referred to the House Calendar and ordered to be printed

Mr. ZABLOCKI, from the Committee on Foreign Affairs,
submitted the following

REPORT

together with

DISSENTING AND ADDITIONAL VIEWS

[To accompany H. Con. Res. 271]

The Committee on Foreign Affairs, to whom was referred the concurrent resolution (H. Con. Res. 271), expressing the sense of Congress with respect to the missing in action in Southeast Asia, having considered the same, report favorably thereon with amendments and recommend that the concurrent resolution as amended do pass.

The amendments, as they appear in the reported resolution, are as follows:

1. Page 2, beginning in line 5, strike out "or any other form of communication, travel."

2. Page 2, immediately after line 9, insert the following:

Sec. 2. In order to maximize public concern for those who are still missing in action in Southeast Asia as well as to honor suitably the memory of those who served and died there, the Congress hereby authorizes and calls upon the President to—

(1) Cooperate with and encourage local officials and civic leaders across the Nation to dedicate and suitably mark individual trees in local ceremonies as living commemoration to former residents who are still missing as a result of the fighting in Southeast Asia, as well as to all those who served and died there; and

(2) Dedicate and suitably mark a national commemorative tree or national commemorative grove of trees at an appropriate location as a national living commemoration to all those who are still missing in Southeast Asia as well as to all those who served and died there.

Such ceremonies shall, to the extent possible, be coordinated for implementation upon Memorial Day next.

3. Amend the preamble to read as follows:

Whereas the Government of the Democratic Republic of North Vietnam and the Provisional Revolutionary Government (Viet Cong) have failed to live up to article 8, paragraph (b) and the protocol in article 10 of the January 27, 1973, agreements and the explanatory statement on the same article contained in the June 13, 1973, agreements, all of which relate to facilitating the location and care of graves of the dead, exhumation, and repatriation of the remains as well as to obtain information on those still considered missing in action; and

Whereas the Lao Patriotic Front (Pathet Lao) has failed to live up to its obligations under the agreement of September 14, 1973; and

Whereas the United States has ceased all military activity in South Vietnam, Cambodia, and Laos as of August 15, 1973; Now, therefore, be it

PROVISIONS OF THE RESOLUTION

"Whereas" Clauses (Preamble):

These clauses are virtually self-explanatory. Essentially, they cite the failure of North Vietnam and the Vietcong to live up to the pertinent provisions of the January 27, 1973, and June 13, 1973, agreements providing for a full and accurate accounting of those missing in action. Further, they cite the failure of the Lao Patriotic Front to live up to its obligations relative to MIAs contained in the agreement of September 14, 1973.

Resolve Clause (Text of the resolution):

The first section of the concurrent resolution is similar to the resolve clauses of the majority of the resolutions considered with the major exception that it has been amended to eliminate the words "communication" and "travel." Basically, it provides that it is the sense of Congress that United States policy shall be to cease forthwith all consideration of aid, trade, diplomatic recognition, or accommodation with the Democratic Republic of North Vietnam or the Provisional Revolutionary Government (Vietcong) until such time as the aforesaid agreements are complied with to the fullest extent.

Section 2 of the concurrent resolution provides that to the extent possible, the Congress authorizes and calls upon the President to cooperate with and encourage local officials and civic leaders to dedicate and suitably mark individual trees in appropriate ceremonies as living commemorations to former residents who are MIA as well as to those who served and died there. It further provides that a national commemorative tree or grove of trees be dedicated and suitably marked for the same reason. These efforts, to be undertaken as a means of maximizing public concern over the MIAs as well as to suitably honor the memory of those who served and died in Southeast Asia, are, to the extent possible, to be coordinated for implementation upon Memorial Day next.

LEGISLATIVE BACKGROUND

During the 1st session of the 93d Congress 19 resolutions were introduced which were concerned directly with the problem of American servicemen who remained missing in action in Southeast Asia. Those

proposals were sponsored or co-sponsored by 133 Members of Congress.

Referred to the House Foreign Affairs Committee, the resolutions were assigned by the chairman of the committee to the Subcommittee on National Security Policy and Scientific Developments.

The list of resolutions considered by the subcommittee, and the members who sponsored and co-sponsored them follows:

H. Con. Res. 271 by Mr. Huber.

H. Con. Res. 279 by Mr. Huber (for himself, Mr. Abdnor, Mr. Broomfield, Mr. Broyhill of Virginia, Mr. Downing, Mr. Price of Texas, Mr. Steiger of Arizona, and Mr. Treen).

H. Con. Res. 280 by Mr. Huber (for himself, Mr. Ashbrook, Mr. Bafalis, Mr. Baker, Mr. Beard, Mr. Burgener, Mr. Chamberlain, Mrs. Chisholm, Mr. Crane, Mr. Dan Daniel, Mr. Denholm, Mr. Derwinski, Mr. Dickinson, Mr. Dulski, Mr. Egan, Mr. Gilman, Mrs. Grasso, Mr. Hinshaw, Mr. Hosmer, Mr. Hudnut, Mr. Kemp, Mr. Ketchum, Mr. Landgrebe, Mr. McCollister, and Mr. Madigan).

H. Con. Res. 281 by Mr. Huber (for himself, Mr. Martin of North Carolina, Mr. Montgomery, Mr. O'Brien, Mr. Podell, Mr. Robinson of Virginia, Mr. Roncallo of New York, Mr. Ronselor, Mr. Spence, Mr. Symms, Mr. Vevsey, Mr. Ware, Mr. Whitehurst, Mr. Bob Wilson, Mr. Charles H. Wilson of California, Mr. Wyman, Mr. Yatron, Mr. Young of Florida, and Mr. Zion).

H. Con. Res. 282 by Mr. Brotzman.

H. Con. Res. 284 by Mr. Huber (for himself, Mr. Robert W. Daniel, Jr., Mr. Parris, Mr. Wampler, Mr. Wyatt, and Mr. Young of Illinois).

H. Con. Res. 286 by Mr. Huber (for himself, Mr. Mann, and Mr. Roe).

H. Con. Res. 288 by Mr. Huber (for himself, Mr. Heinz, and Mr. Murphy of Illinois).

H. Con. Res. 291 by Mr. Huber (for himself, Mr. Archer, Mr. Bevil, Mr. Blackburn, Mr. Brown of Michigan, Mr. Butler, Mr. Cochran, Mr. Collier, Mr. Eilberg, Mr. Gonzalez, Mr. Gross, Mr. Gunter, Mr. Helstoski, Mr. Hunt, Mr. Johnson of California, Mr. Keating, Mr. Michel, Mr. Murphy of New York, Mr. Nedzi, Mr. Poage, Mr. Quie, Mr. Regula, Mr. Roush, Mr. Sarasin, and Mr. Walsh).

H. Con. Res. 293 by Mr. Huber (for himself, Mr. Bowen, Mr. Conlan, Mr. Hogan, Mrs. Holt, Mr. McEwen, Mr. Minish, Mr. Nichols, Mr. Satterfield, Mr. Shoup, Mr. Shriver, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Won Pat, and Mr. Young of South Carolina).

H. Con. Res. 294 by Mr. Talcott.

H. Con. Res. 299 by Mr. Huber (for himself, Mr. Gerald R. Ford, Mr. Lent, Mr. Miller, Mr. Robison of New York, and Mr. Steele).

H. Con. Res. 304 by Mr. Fuqua.

H. Con. Res. 314 by Mr. Huber (for himself, Mr. Fulton).

H. Con. Res. 332 by Mr. Huber (for himself, Mr. Cleveland).

H. Con. Res. 333 by Mr. Huber (for himself, Mr. Rinaldo).

H. Con. Res. 374 by Mr. Huber (for himself, Mr. Sebelius).

H. Con. Res. 383 by Mr. Esch.

H.J. Res. 830 by Mr. Pickle (for himself, Mr. McCollister, Mr. Montgomery, Mr. Kemp, Mr. Spence, Mr. Burgener, Mr. Cochran, Mr. Don H. Clausen, Mr. Rangel, Mr. Huber, Mr. Scherle, Mr. Quie, Mr.

Ketchum, Mr. Addabbo, Mr. McEwen, Mr. Bob Wilson, Mr. Robinson of Virginia, Mr. Won Pat, Mr. Eilberg, Mr. Roe, Mr. Treen, Mr. Ronselor, and Mr. Hudnut).

COMMITTEE ACTION

The Subcommittee on National Security Policy and Scientific Developments held hearings on these pending resolutions on December 3, 1973. Among those who testified were 4 Members of Congress, representatives from the Department of State and the Department of Defense, and 2 private witnesses from the National League of Families of American Prisoners and Missing in Southeast Asia. In addition, 24 Members of Congress submitted written testimony.

Spokesmen for the executive branch were Mr. Frank A. Sieverts, special assistant to the Deputy Secretary of State for POW/MIA, and Dr. Roger E. Shields, assistant to the Assistant Secretary of Defense for International Security Affairs, and Director of POW/MIA Affairs.

Without providing endorsement to any particular form of congressional expression, the administration witnesses indicated that they would welcome Congress expressing itself on the missing in action issue through passage of a resolution.

The resolutions considered by the subcommittee fell generally into three categories:

(1) By far the largest number of resolutions with the greatest number of co-sponsors followed the language contained in H. Con. Res. 271, the first resolution introduced on the MIA issue. Basically, these resolutions cited the failure of North Vietnam and the Vietcong to comply with article 8, paragraph (b) and the protocol in article 10 of the January 27, 1973, agreements as well as the explanatory statement on the same article contained in the June 13, 1973 agreements—all of which relate to facilitating the location and care of graves of the dead, exhumation, and repatriation of the remains as well as to obtaining information on those still considered missing in action. In the face of that situation the resolutions provided that the policy of the United States should be to "cease forthwith all consideration of aid, trade, diplomatic recognition, or any other form of communication, travel, or accommodation" with North Vietnam and the Vietcong until such compliance was forthcoming.

(2) Two resolutions differed from the first group only in their elimination of the language prohibiting "communication" and "travel."

(3) A single resolution differed from the first two groups in that it urged the United States to request the cooperation of all other governments in seeking compliance by North Vietnam and the Vietcong. It also differed by providing that the resolution be sent to the Secretary General of the U.N. and that it be presented at the next session of the U.N. General Assembly for its adoption.

On the basis of information developed during the hearings, the subcommittee met on January 30, 1974, to markup the various proposals under consideration. Using H. Con. Res. 271 as the working draft, the subcommittee's chief amendment to the legislation was the elimination of language prohibiting "communication" and "travel." In addition to transposing the second and third whereas clauses, the subcommittee

also amended the third Whereas clause to state explicitly that the U.S. has ceased all military activity in South Vietnam, Cambodia, and Laos as of August 15, 1973. Another amendment approved by the subcommittee provided for the encouragement of a nation-wide program of dedicating individual trees or groves of trees as appropriate commemorations to the MIAs and as a means of maximizing public concern over their plight. Following final subcommittee approval, H. Con. Res. 271 was favorably reported to the full committee as amended on January 30, 1974.

On April 3 the amended resolutions was considered by the full committee, unanimously approved, and ordered reported to the House favorably.

NUMBERS OF AMERICAN POW/MIAs IN SOUTHEAST ASIA

With the release of some 591 American POW's early in 1973, the fate of more than 1,300 other Americans remained unknown. Since that time the remains of 23 American servicemen have been returned and a determination made on a limited number of others. In addition, however, some 56 servicemen who were previously acknowledged as captured are still officially carried on Defense Department rolls as POW. Thus, as of March 30, 1974, the statistical totals, as supplied by the Department of Defense, are as follows:

Prisoners of war:	33
North Vietnam	20
South Vietnam	2
Laos	1
Cambodia	1
Subtotal	56
Missing in action:	361
North Vietnam	336
South Vietnam	311
Laos	21
Cambodia	3
People's Republic of China	1
Subtotal	1,032
Total POW/MIA	1,088

Note.—Precise location by country is difficult in some cases. Since many of the missing were aircrews they are listed by country only on the basis of last known position without any further conclusive information concerning the actual area of their loss.

ASSISTANCE PROVIDED BY OTHER COUNTRIES ON BEHALF OF MIAs

In response to the interest and concern of the Subcommittee on National Security Policy and Scientific Developments regarding the efforts of U.S. allies on behalf of American MIAs, a report on the question was requested from the Department of State. The thought behind the subcommittee's request was that such information would be helpful to Members who wish to discuss the issue at various interparliamentary group meetings.

The State Department report indicated that a wide range of governments and international organizations have made known their concern about North Vietnam's handling of the POW/MIA issue. Resolutions

on POW's were adopted by the International Conference of the Red Cross in 1969 and the United Nations General Assembly in 1970.

Among the countries supporting these actions were Great Britain, Canada, West Germany, Japan, Mexico, Norway, Denmark, Finland, Turkey, Austria, Italy, Senegal, Belgium, Spain, and the Netherlands. In addition, the Council of Europe issued a written declaration on this subject during its Consultative Assembly in May 1972.

At its most recent meeting in 1973, the International Conference of the Red Cross unanimously adopted a strongly worded resolution on the missing in action problem, sponsored by Denmark, Mexico, the Netherlands, Norway, Pakistan, and the United States, and the Red Cross societies of Australia, Brazil, Canada, Ethiopia, the German Democratic Republic, Great Britain, Iceland, the Netherlands, Pakistan and the United States.

A number of other governments, including India, Japan, and Israel, as well as the Arab states, also made known their support for this resolution. At the United Nations, the Secretary General's office has also reaffirmed his concern about the missing in action situation.

1973 CHRONOLOGY OF U.S. EFFORTS THROUGH THE FOUR PARTY JOINT MILITARY TEAM TOWARD OBTAINING INFORMATION ABOUT AMERICANS AND THIRD COUNTRY NATIONALS UNACCOUNTED FOR IN SOUTHEAST ASIA

April 4: First formal meeting of the FPJMT. The U.S. Delegation proposed early discussion of procedures to exchange information about the missing. A general agreement was reached that the concerned parties could deal directly with one another in exchanging information about missing personnel.

April 17: The U.S. Delegation furnished other Delegations with a list of United States and Third Country Nationals (TCNs) missing.

April 24: The U.S. Delegation sent the DRV Delegation a letter containing specific information concerning two Thai Nationals about whom the DRV should have knowledge.

May 16: The U.S. Delegation furnished other Delegations a list of 14 missing Korean Nationals.

May 21: The U.S. Delegation noted that four months had elapsed since the ceasefire without any progress having been made toward resolution of missing cases.

May 22: The U.S. Delegation requested DRV and PRG provide United States with all information about U.S. missing.

May 29: The U.S. Delegation reiterated the request that all available information about U.S. missing be provided.

May 31: The U.S. Delegation furnished other Delegations with a list of 8 Australian Nationals missing.

June 7: The DRV Delegation indicated the PRG had information about crash and burial sites along the DMZ and in Southern North Vietnam. The DRV supported the PRG position that the PRG representatives needed to travel to Hanoi to coordinate the release of this information. The U.S. Delegation sent letters to DRV and PRG citing delay in receiving information about missing U.S. persons on lists already provided, and offered U.S. support and additional data to expedite the search for this information.

July 10: The U.S. Delegation distributed copies of the pamphlet "Missing" published by the American Committee to Free Journalists held in Southeast Asia, and discussed the responsibility of the parties to provide information concerning the missing journalists.

July 24: The U.S. Delegation proposed that "concrete action" of exchange of information about missing persons be a part of the FPJMT operating schedule.

July 26: The U.S. Delegation proposed immediate exchange of information about missing persons.

August 21: The Chief of the U.S. Delegation delivered a prepared statement during the meeting noting the refusal of the DRV and PRG to provide information on United States and TCN missing personnel.

September 26: The U.S. Delegation delivered three memoranda to the Chief, PRG delegation requesting information about missing Australian and Korean TCN's and the status of prior U.S. request to conduct crash site inspections in PRG controlled territory.

September 27: The Chief, U.S. Delegation delivered a statement during the meeting cataloging U.S. efforts on behalf of other countries in seeking information about their missing and deceased personnel and repatriation of remains, and requesting DRV and PRG assistance.

October 5: The U.S. Delegation delivered a memorandum to the Chief, PRG Delegation requesting information about 3 missing Philippine Nationals.

October 10: The U.S. Delegation delivered a memorandum to the Chief, PRG Delegation requesting information about 4 missing Federal Republic of Germany Nationals, and a memorandum to the Chief, DRV Delegation requesting information about 2 missing Thai Nationals.

October 27: The U.S. Delegation delivered a memorandum to the Chief, PRG Delegation requesting information about 8 missing Japanese Nationals.

1973 CHRONOLOGY OF U.S. EFFORTS THROUGH THE FOUR PARTY JOINT MILITARY TEAM TOWARD OBTAINING INFORMATION ABOUT AMERICANS AND THIRD COUNTRY NATIONALS WHO ARE LISTED AS DECEASED AND COMPLETING ARRANGEMENTS FOR REPATRIATION OF REMAINS

April 4: During the first formal meeting of the FPJMT, the U.S. Delegation proposed early discussion of repatriation of remains of deceased persons.

April 7: The U.S. Delegation stated its readiness to make arrangements for the return of persons who had died in the captivity of the other side.

April 10: The U.S. Delegation outlined the U.S. concept of general procedures to repatriate the remains of Americans who were listed as having died in captivity. The DRV mentioned for the first time the need for procedures to visit cemeteries.

April 11: The U.S. Delegation sent two letters each to the DRV and PRG Delegations. The first letter enclosed the lists of persons the other side had listed as deceased and requested grave location and date for the repatriation of the remains. The second letter outlined the

U.S. concept of procedures for the repatriation of the remains and requested comments by April 17, 1973.

April 13: The DRV and PRG both stated they were studying the United States April 11 letters. Both the DRV and PRG emphasized the need for agreement on general modalities before proceeding to specific operations.

April 24: The DRV Delegation suggested the FPJMT visit grave locations in NVN sometime after May 1. U.S. Delegation requested discussion of United States April 11 letter proposing procedures for the repatriation of remains.

April 26: The U.S. Delegation presented U.S. concept of the FPJMT visit to grave locations in NVN.

April 30: The PRG and DRV again stated the need for general agreement on modalities before proceeding for repatriation of remains.

May 3: The U.S. Delegation outlined U.S. concept for FPJMT visit to grave locations in NVN and listed composition of U.S. team.

May 8: Agreement reached and final arrangements made for FPJMT visit to grave locations in NVN, to be accomplished May 11, 1973. The U.S. team composition for the visit totaled 8 delegates and specialists.

May 11: First FPJMT visit to grave locations in NVN was conducted. The U.S. representatives posed a list of pertinent questions to Hanoi officials. No response was received except to refer the need for discussion at Saigon during meeting of the FPJMT. Only three graves, located in Van Dien Cemetery, were shown to the FPJMT representatives.

May 15: The U.S. Delegation proposed that the FPJMT schedule for the month of May include FPJMT visit to grave locations in NVN on May 18 and FPJMT visit to grave locations in PRG controlled territory, May 16-19.

May 18: Second FPJMT visit to grave locations in NVN was conducted. U.S. representatives attempted to obtain answers from Hanoi officials to pertinent questions. The DRV referred to the need for a formal FPJMT meeting in Saigon to reach agreement on details of procedures for the repatriation of remains from NVN. U.S. representatives outlined U.S. concept for these procedures. A total of 22 graves, located at Ba Huyen Cemetery, were shown in the FPJMT representatives.

May 29: The U.S. Delegation proposed that the FPJMT operating schedule for June include FPJMT visits to grave locations in NVN.

June 6: The U.S. Delegation sent a letter to the DRV Delegation proposing a specific operating schedule for the repatriation on 22 June from Ba Huyen Cemetery of the remains of the 22 persons that the DRV had indicated are interred at that location.

June 16: The U.S. Delegation sent a letter to the PRG Delegation deploring the long delay in obtaining information from the PRG on deceased persons, offering U.S. support to transport PRG Delegates to visit local officials to gather information, and requesting locations of graves in PRG controlled territory.

June 20: The PRG announced their intention to invite the FPJMT, in the near future, to visit graves of persons who died in their captivity.

July 3: The U.S. Delegation asked the DRV to explain the delay in the repatriation of remains from NVN.

July 5: The U.S. Delegation requested the DRV to establish a date for the repatriation of remains from NVN.

July 12: During meeting, the U.S. Delegation proposed that the repatriation of remains from NVN be an agenda item. The proposal was rejected by the DRV Delegation.

July 16: The U.S. Delegation sent a memorandum to the DRV Delegation proposing an operating schedule for the repatriation of remains interred in Van Dien Cemetery (NVN).

July 19: During meeting, the U.S. Delegation proposed that the repatriation of remains be an agenda item. The DRV reemphasized the need for complete agreement on modalities.

July 24: During meeting, the U.S. Delegation proposed that the FPJMT schedule the repatriation of remains as a part of the FPJMT "concrete actions."

July 26: During meeting, the U.S. Delegation proposed development of an operating schedule including the repatriation of remains from DRV and PRG territory.

July 31: During meeting, the U.S. Delegation proposed operating schedule for August including repatriation of the remains of deceased U.S. persons from NVN on August 10 and 24, and from PRG territory on August 27.

August 2: During meeting, the U.S. Delegation proposed immediate discussion of schedule of FPJMT activities including repatriation of U.S. remains from NVN.

August 7: During meeting, the U.S. Delegation, noting the extended stay in Hanoi of the Deputy Chief, DRV Delegation, requested establishment of operating schedule for the repatriation of U.S. remains from NVN.

August 14: During meeting, the U.S. Delegation questioned the PRG concerning the PRG June 20 statement that the PRG had information about U.S. servicemen buried in PRG territory.

August 15: The DRV Delegation sent non-substantive memorandum to the U.S. Delegation, which was purported to be a response to the U.S. letter of June 6 and the U.S. memorandum of July 16.

August 21: During meeting, the Chief, U.S. Delegation delivered a prepared statement which noted the refusal of the DRV and PRG to cooperate in the repatriation of the remains of U.S. deceased personnel.

September 26: The U.S. Delegation delivered two memoranda to the Chief, PRG Delegation. One requested information about missing Korean Nationals and repatriation of the remains of deceased Korean Nationals; the other a similar request concerning Australian Nationals.

September 27: During meeting, the Chief, U.S. Delegation delivered a statement cataloging U.S. efforts on behalf of other countries in seeking information about missing TCN's and repatriation of remains of deceased TCN's, and requesting DRV and PRG assistance.

October 5: The U.S. Delegation delivered two memoranda to the Chief, PRG Delegation. One memorandum requested the location of the graves of deceased U.S. persons and in general provided a followup of prior U.S. requests for visits to grave sites and repatriation of re-

main. The other memorandum concerned Philippine Nationals: requesting information about two who are missing and requesting repatriation of the remains of another who was listed as deceased.

October 10: The U.S. Delegation delivered a memorandum to the Chief, PRG Delegation concerning four Federal Republic of Germany Nationals, requesting information about one who is missing and requesting repatriation of the remains of three others who were listed as deceased.

FACT SHEET

UNITED STATES JOINT CASUALTY RESOLUTION CENTER

The Joint Casualty Resolution Center (JCRC) is a joint military task force organization located at Nakhon Phanom Royal Thai Air Force Base, Thailand. It is an outgrowth of United States Government efforts to identify, document and maintain records of known or suspected missing in action and prisoners of war. The Center is responsible for assisting the Services with the task of resolving the status of US personnel missing in action through analysis of all available information, and/or conduct of operations to locate and investigate crash and grave sites or other last known locations of those unaccounted for and to recover and identify remains of those who died throughout Southeast Asia.

The JCRC is organized to conduct field search operations using small teams of specialized personnel. Provisions are made for using indigenous personnel as guides or labor force as required.

Authorities to conduct field operations are provided by the American Embassy in coordination with local government agencies in the country concerned, or by negotiating bodies established by international agreements. In Vietnam, the authorities are obtained by the Four-Party Joint Military Team. Requests for US search operations are presented to the Delegation concerned, with information copies to all other delegations. The Party controlling the area concerned then approves or disapproves the proposed operation and informs all delegations. The US Delegation, upon approval, then provides full details and operating schedules to all parties and extends an invitation for them to observe the operation. (This invitation to observe is to reinforce the USG position that JCRC operations are overt and strictly humanitarian in nature, and carried out under JCRC auspices.)

The JCRC began operations in South Vietnamese territory in May 1973. Since that time, 15 operations have been conducted with limited success. All searches have been confined to territory under the control of the RVN. Despite repeated requests, the communist delegations have yet to approve JCRC team operations in their territory.

On 15 December, a JCRC team and its RVN support elements were attacked by hostile forces near Saigon. One American and one South Vietnamese were killed and seven persons were wounded (four Americans and three Vietnamese). The U.S. Delegation had apprised all delegations of the proposed operations in accordance with established procedures. The U.S. Delegation protested the attack in the FPJMT plenary session of 18 December and walked out of the session. The RVN Delegation also protested the attack and walked out of the session.

The present Commander of the JCRC is BG Joseph P. Ulatoski, USA, who assumed command in January 1974 replacing BG Robert C. Kingston.

In addition to field operations in South Vietnam, the JCRC participated in the return of 12 U.S. remains from North Vietnam on 6 March. An additional 11 U.S. remains were turned over to a JCRC team on 13 March 1974. These remains were evacuated to the Central Identification Laboratory, Sattahip, Thailand for identification and processing. All field search operations have been temporarily suspended pending a reassessment of the threat and to gain assurances of safety for the team.

PAST CONGRESSIONAL ACTION

In 1969, the United States—in a conscious shift of policy—began a program of public diplomacy in an effort to educate and mobilize public opinion in the U.S. and around the world on the POW/MIA issue.

As its contribution to this national effort, the 91st Congress unanimously passed H. Con. Res. 454 which called for the humane treatment and eventual release of all American prisoners of war in Southeast Asia. A similar resolution, H. Con. Res. 374, was subsequently passed by the 92nd Congress in 1971.

Apparently as a result of these varied efforts, the North Vietnamese made some concessions in their handling of American prisoners, a fact substantiated by the testimony of returned POWs.

Since it first took up the question in November 1969, the Subcommittee on National Security Policy and Scientific Development has held a total of 19 days of hearings with testimony from 81 witnesses. In addition, nine separate documents have been issued by the subcommittee.

Throughout this extended period, the subcommittee's objectives have remained the same: (1) to continue to demonstrate the deep concern of Congress over the fate of prisoners of war and those missing in action as well as the well-being of their loved ones at home; (2) to continue to be brought up to date on developments and events relating to the POW/MIA problem; and (3) to hear testimony on behalf of various POW/MIA resolutions.

THE NEED FOR A CONGRESSIONAL RESOLUTION

There are a number of excellent reasons why a congressional resolution addressed to the problem of Americans missing in action in Southeast Asia is desirable and, indeed, necessary:

(1) *Formal Statement by the 93rd Congress.*—In the light of the obvious failure of North Vietnam and the Vietcong to comply with the provisions of the Paris Ceasefire Agreement relative to a full and accurate accounting of prisoners and those missing in action, there is a clear demand for the Congress—as the duly elected representative of the American people—to make its position unequivocally clear. Despite differences of opinion on U.S. involvement in the Southeast Asian conflict, all Members of Congress, as all Americans, are united in the cause of obtaining complete information on the MIAs and the

return of known remains. The 91st and 92nd Congresses went on record with "sense of Congress" resolutions. The 93rd Congress can do no less.

(2) *Individual Members Take a Stand.*—This resolution will provide an opportunity for individual Members of Congress to stand up and be counted on their convictions that the matter of Americans missing in action is one of highest priority and concern.

(3) *Support for MIA Families.*—Adoption of this resolution will demonstrate to the wives and children, mothers and fathers, friends and relatives of those missing in action in Southeast Asia that the Congress shares their anguish and sympathizes with their plight. The uncertainty which these loved ones have endured has been a heavy burden, for some as long as eight or nine years. They deserve the consolation of knowing that the Congress stands behind them.

(4) *Attainment of Desirable MIA Goals.*—Adoption of this resolution can help attain certain desirable national goals regarding Americans missing in action in Southeast Asia. First, it may be a factor in drawing renewed world attention to the fact that North Vietnam and the Vietcong have failed to live up to the Paris Ceasefire Agreements. Second, it may also help convince North Vietnam and the Vietcong that until and unless they do live up to their legal obligations on the MIA issue, the U.S. will not give any consideration to aid, trade, or diplomatic recognition.

(5) *Encouragement of Other Efforts.*—Adoption of H. Con. Res. 271 will encourage and assist efforts by our government, the American National Red Cross, and other domestic and foreign organizations to resolve the MIA problem as well as to bring solace and relief to the MIA families.

DISSENTING VIEWS OF HON. M. J. HARRINGTON

However defensible or laudable the objectives of H. Con. Res. 271, I have serious reservations about this method of seeming to deal with matters of genuine importance and substantial complexity.

I doubt if any Member of Congress does not recognize the very serious problems encountered in efforts of our government to account for soldiers missing-in-action and obtain information on, or access to, the actual sites where the remains of American personnel may be located. It is also generally recognized that to a large degree these difficulties can be ascribed to the intransigence of the government of North Vietnam and the Provisional Revolutionary Government. To put matters in perspective, however, a case can also be made that non-compliance with the peace agreements on the part of the government of South Vietnam has also contributed materially to the difficulties in reaching a satisfactory answer to the MIA question.

There is no denying the very real tragedy for every MIA family, or the pressure that has been brought upon the Congress, with the best of intentions, to do *something* about the MIA situation. The approach chosen by the Committee in H. Con. Res. 271, however, is one which I approach with caution. If one takes a broad view of the problems encountered in achieving full compliance—by all sides—with the Paris peace accords, then one is drawn to the conclusion that it may not be appropriate for the United States Congress to put itself on record as being unalterably opposed to *even the consideration of* "aid, trade" and "diplomatic recognition" as applicable to the North Vietnamese government or the PRG. Such an extreme position—which might be interpreted as U.S. abrogation of the Paris accords—may ultimately be in the disinterest of MIA's and their families.

It seems to me that the principle objective of our policy toward Vietnam should be the attainment of a peace with some permanence to it. We must recognize the facts of the deteriorating situation in Southeast Asia, and that Congressional adoption of a position as extreme as that contained in H. Con. Res. 271, might harm not only our efforts in behalf of MIA's and their families, but our larger efforts to achieve a peaceful resolution of the lengthy Vietnamese conflict.

The concern of the Committee in this instance is doubtless appropriate, but the method of response chosen is not. This kind of resolution, with no legal effect, is regrettably indicative of the kind of non-substantive activity undertaken by this and other Committees far too often. Only momentary satisfaction—if that—will be derived from this resolution. Cosmetic approaches to complex problems, which bring only false hopes to those directly and personally affected, are the sort of things which I believe Congress should forsake.

M. S. HARRINGTON.

(13)

ADDITIONAL VIEWS OF REPRESENTATIVE PAUL FINDLEY

This resolution is devoted to increasing public awareness and concern for the missing in action in Vietnam. It has two sections, each serving an important function.

The first is aimed squarely at the government of North Vietnam, the Viet Cong, and the Pathet Lao. It calls for the termination of any consideration of aid, trade, diplomatic recognition or accommodation with these parties until they comply with the Paris Peace Agreement.

The purpose of the second section is to focus the attention of the American people upon the failure of North Vietnam, the Viet Cong, and the Pathet Lao to comply with the Paris Peace Agreement. Through a national program of commemorative tree plantings, the American people will be reminded of the great sacrifices yet being made by Americans who are still missing in Southeast Asia and are hopefully alive, and by their families still living in uncertainty. The resolution also provides for similar recognition to be accorded the Americans who died in Vietnam during the war. No funds are authorized for these ceremonies. It is contemplated that they will be entirely locally planned and financed.

Both sections of the resolution are important to an effective expression by the Congress and the American people on the MIA question. Worthy as the Congressional expression in section one is, it will do little by itself to arouse public awareness of the MIA problem or to express the problem in personal terms. A national program of tree dedications, each planned and carried out locally, will certainly heighten public awareness of the fact that 1,088 men are still missing. It will personalize the problem because each tree will commemorate a separate individual. It will galvanize America's commitment that no aid or trade with the enemy will be considered until the missing-in-action question is settled. In fact, it was just this massive public awareness which was credited in large part, with reducing North Vietnam's intransigence and bringing about the release of our POWs one year ago.

A living tree is a logical and hopeful symbol of our missing men. Like the tree, hope lives on. By planting one for each of our MIAs, we express our fervent hope that they yet remain alive and may soon be returned to their families.

It is also appropriate at the same time to recognize the great sacrifice of the more than 56,000 men who died in Southeast Asia. These men, too, are the special heroes of that war, yet little has been done either nationally or locally to honor them. Unlike the aftermath of World Wars I and II, and the Korean War, few are the monuments erected to their memory. Yet these men truly gave the last full measure of devotion to their country, as surely as any soldier who died in any previous war.

(15)

It is entirely appropriate to combine the ceremonies commemorating our MIAs and those who died in Vietnam. Living trees symbolize not only the hope for our MIAs, but also the realization that our war dead did not die in vain. Memory of the sacrifices by both should be enduring.

Several towns in Illinois have already carried out such combined ceremonies, including Springfield, Alton, Wood River, and Roodhouse. In 1973, Roodhouse was one of the first, dedicating four trees to its war dead and one to Major Philip E. Smith, who was being held captive in a Peking prison as a result of the Vietnam War. Several months after the tree dedication, Major Smith was released and returned to his family in Illinois.

The national program of tree dedications—and this special legislative language—have the endorsement of the National League of Families of American Prisoners and Missing in Southeast Asia, as well as the American Legion. The National League has written each member of the Foreign Affairs Committee, stating that it "supports this resolution and hopes that it will be passed at an early date." Colonel Scott Albright, the National League's Executive Director, has also offered "the support of the National League in carrying out ceremonies connected with the dedication of living trees for the Missing in Action."

The American Legion has responded similarly and has already alerted its local departments to this proposal, encouraging them to plan and promote commemorative groves of trees.

PAUL FINDLEY.

Calendar No. 750

93D CONGRESS
2d Session

SENATE

REPORT
No. 93-779

AMERICANS MISSING IN SOUTHEAST ASIA

APRIL 9, 1974.—Ordered to be printed

Mr. SPARKMAN, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany S. Con. Res. 81]

The Committee on Foreign Relations, to which was referred the concurrent resolutions (S. Con. Res. 41) Establishing the policy of the United States vis-a-vis the Democratic Republic of North Vietnam and the Provisional Revolutionary Government; (S. Con. Res. 63), Relating to unaccounted for personnel captured, killed, or missing during the Indochina conflict; and (S. Con. Res. 68), To express the sense of the Congress regarding Americans missing in action in Indochina, having considered the same, reports favorably an original concurrent resolution and recommends that the concurrent resolution do pass.

1. PURPOSE

The purposes of this resolution are to express the sense of the Congress that the United States Government should make every effort to persuade the Democratic Republic of Vietnam, the Provisional Revolutionary Government of Vietnam, and the Lao Patriotic Front to comply with their obligations with respect to Americans captured, killed or missing in North and South Vietnam and Laos; to obtain the cooperation of the parties to the conflict in Cambodia regarding persons missing in that country; to obtain the cooperation necessary for the operation of search teams; and to bring about reciprocal actions by all parties to the ceasefire agreements which might facilitate an accounting for the missing in action, as well as to express the support of the Congress for the families and loved ones of those missing.

2. BACKGROUND

At the time of the signing of the Agreement on Ending the War and Restoring Peace in Vietnam in January 1973, the Department of

Defense carried the names of almost 2,000 Americans as missing in action or prisoner of war in Southeast Asia. Article 8 of the Agreement specifies the obligations of the parties with regard to the return of captured military personnel and foreign civilians, and captured and detained Vietnamese civilian personnel. Of particular importance to the United States is Article 8(b) which states:

The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action.

Within a few days after the signing of the Agreement in Paris, the Democratic Republic of Vietnam (North Vietnam) identified nearly 600 persons, primarily Americans, whom it was holding prisoner and another seventy whom the Hanoi authorities said had died in captivity. Subsequently, nine other United States personnel were identified as having been captured by the Lao Patriotic Front. The return of the prisoners on these lists was completed by April 1, 1973. Efforts were then begun to obtain the repatriation of the remains of those who died in captivity, to account for the approximately 1,300 remaining missing in action and to obtain more information concerning another 1,100 personnel who had been declared dead but whose bodies had not been recovered.

United States officials have provided communist authorities with lists of all persons unaccounted for, including detailed information regarding certain specific cases. Of particular concern were the cases of a number of men about whom there were indications that they may have survived air crashes and may have been alive in communist territory, but who were neither reported on nor returned by Hanoi. To date, however, United States officials have not received any clarification of these discrepancies or any additional information concerning the other missing personnel.

Apart from the return of the nine prisoners who, according to the North Vietnamese Government, had been captured by the Lao Patriotic Front, the United States Government has been unable to learn anything about the fate of the more than 300 other servicemen, mostly pilots and aircrews, believed missing in Laos. The Lao Agreement of February 21, 1973, and its protocol of September 14, 1973, contained provisions relating to the return of and accounting for prisoners but, for the most part, these obligations were not to become operative until the formation of the Provisional Government of National Union and the Joint National Political Council provided for in the agreements. The protocol (Article 8C) did provide that within 15 to 30 days from the signing of the protocol the two parties were to report the number of prisoners still held and the names of any who died in captivity. Unfortunately, that date passed without any lists being produced. On April 5, 1974 the press reported that the new Lao coalition government had at last been formed, thus giving rise to the hope

for additional prisoner releases and new information about those missing in Laos.

Shortly after the Vietnam ceasefire the United States Government announced the formation of teams which would be specially trained and equipped to search throughout Indochina for missing men and to investigate known and suspected crash and grave sites. These teams have been operating in South Vietnam with the approval of that government, but, repeated efforts have failed to obtain permission from the North Vietnamese and the Provisional Revolutionary Government for these teams to operate in territory under their control. On December 15, 1973 a clearly marked, unarmed helicopter carrying United States search personnel was attacked in what had been believed to be an area of South Vietnamese control with the resultant death of one American and one Vietnamese and the wounding of seven others, including four Americans.

Under the Paris Agreement, matters pertaining to Article 8(b) and its implementation were to be discussed in the Four Party Joint Military Team (United States, South Vietnam, North Vietnam and the Provisional Revolutionary Government (Viet Cong)), which meets in Saigon. Until quite recently these meetings produced no progress, with the representatives of North Vietnam and the Provisional Revolutionary Government seeking to raise issues which the South Vietnamese insist are beyond the scope of Article 8(b) and therefore not within the competence of the Four Party Team.

In early March, 1974, the North Vietnamese agreed to the return of the remains of 23 Americans who were described as having died in captivity. The retrieval of these 23 bodies was accomplished by mid-March, 1974. This is the only instance to date of any compliance by North Vietnam with the terms of Article 8(b).

3. COMMITTEE ACTION

As the first anniversary of the Paris agreements approached without any progress in accounting for Americans missing in action, the Committee on Foreign Relations decided to hold a public hearing to review the problem and to examine what further steps might be taken to obtain compliance with Article 8(b) of the Paris Agreement. In announcing the hearing for January 28 Chairman Fulbright noted that "few Americans are able to see any legitimate connection between what is essentially a Vietnamese political matter and Hanoi's pre-existing contractual and humanitarian obligation to facilitate the accounting for the missing in action."

Although the Secretaries of State and Defense were unable to testify as requested, the Executive Branch was represented by Mr. Frank Sieverts, Special Assistant to the Deputy Secretary of State for Prisoners of War/Missing in Action Matters, and Mr. Roger Shields, Deputy Assistant Secretary of Defense for International Economic Affairs, who reviewed the status of the missing in action problem and the efforts of the United States Government to obtain an accounting. Testimony was also received from Colonel Scott Albright, Executive Director of the National League of Families of American Prisoners

and Missing in Southeast Asia; from Mrs. Joseph P. Dunn, wife of Lt. Commander Joseph P. Dunn, missing since February 14, 1968; and from Mr. E. C. Mills, father of Lt. Commander James B. Mills, missing since September 21, 1966. The transcript of this hearing was published by the Committee on March 28, 1974.

At the time of the hearing, the Committee had under consideration two resolutions dealing with the problem of the missing in action: S. Con. Res. 41, introduced by Senator Tower on July 20, 1973, and S. Con. Res. 63, introduced by Senator Percy on January 21, 1974.

S. Con. Res. 41 called for a prompt cessation of all aid, trade, diplomatic recognition or any form of communication, travel or accommodation with North Vietnam or the Provisional Revolutionary Government until such time as they were in full compliance with the Paris agreements. Co-sponsors of this resolution were Senators Bible, Brock, Cotton, Dole, Domenici, Gurney, Helms, Hruska, McClure, McIntyre, Nunn, Packwood, Pastore, Thurmond and Young.

S. Con. Res. 63 called for new efforts by the United States Government to persuade the North Vietnamese, the Viet Cong and the Pathet Lao to comply with their obligations; and recommended that every effort be made to obtain the cooperation necessary for the activities of U.S. search teams. Co-sponsors of this resolution were Senators Bayh, Buckley, Church, Fulbright, Humphrey, Javits, McGee, McGovern, Muskie, Pell, Scott (Pa.) and Sparkman.

A third resolution, S. Con. Res. 68, was introduced by Senator Javits on February 21, 1974. This resolution stated that the Congress "abhors and condemns the cruel and insensitive refusal" of the communist parties to comply with their obligations; resolved that the United States should use every effort to bring about reciprocal actions by the parties to the peace agreements, including the South Vietnamese and Lao governments, relative to an accounting; and declared the support of the Congress for the families and loved ones of those missing. Co-sponsors of this resolution were Senators Abourezk, Bayh, Biden, Dole, Gurney, Hansen, Hart, Hollins, Inouye, Moss, Pastore, Proxmire, Scott (Pa.), Stevens, Taft, Tunney, Williams and Young.

Executive Branch comments were requested on these resolutions and are printed in the appendix to this report. In a letter dated March 22, 1974, the Executive Branch informed the Committee that it "would welcome adoption of either or both" S. Con. Res. 63 or S. Con. Res. 68, and expressed the hope that "such action would help make clear to the communist authorities the importance attached to this subject by the Congress and the American people."

These resolutions were considered in an executive session of the Committee on April 2, 1974. At that time Senator Percy and Senator Javits proposed that the principal points of their two resolutions, S. Con. Res. 63 and S. Con. Res. 68, be combined in a single resolution. This proposal was agreed to by the Committee without objection and the two texts were combined in an original Committee resolution which was ordered reported favorably to the Senate.

4. APPENDIX

DEPARTMENT OF STATE.

Washington, D.C., November 21, 1973.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of July 24 to former Secretary Rogers in which you requested Executive Branch comment on Senate Concurrent Resolution 41, "Establishing the policy of the U.S. vis-a-vis the Democratic Republic of North Viet-Nam and the Provisional Revolutionary Government."

In the Agreement on Ending the War and Restoring Peace in Viet-Nam, the US pledged to contribute to healing the wounds of war and to post-war reconstruction of North Viet-Nam. It was never in our minds, however, to attempt to implement the assistance provision of the Agreement (Article 21) in isolation from the other provisions. We have, therefore, repeatedly made it clear to the North Vietnamese, in our private negotiations with them, as well as in numerous public statements, that consideration of Article 21 cannot be unrelated to the manner in which the other provisions of the Agreement, including Articles 8 of the Agreement and 10 of the Protocol, are being fulfilled. In more specific terms, the Democratic Republic of Viet-Nam (DRV) has been told that, preliminary discussions aside, it would be highly unrealistic of them to expect the United States Government—including the Congress, which DRV officials know has the final say in this matter—to approve a program of assistance until we are completely satisfied with their post cease-fire performance. As you know, this is far from the case at present and we are actively concerned by the continued buildup of North Viet-Nam's war machine in South Viet-Nam.

Despite the foregoing, the Department of State prefers "not to foreclose the possibility that by a combination of deterrents and persuasion the DRV may eventually adopt a more reasonable policy. Senate Concurrent Resolution 41 appears to us to slam the door too hard and to limit our flexibility to an undesirable extent." In short, while we are seriously concerned over North Viet-Nam's violations in a number of areas, including Articles 8 of the Agreement and 10 of the Protocol, we are not yet ready to write off conclusively the chance of improved performance by the DRV. It remains our hope that the North Vietnamese can be induced to choose the road of cooperation and peace, instead of reverting to large-scale warfare.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

DEPARTMENT OF STATE,
Washington, D.C., March 22, 1974.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letters of January 23 and February 25, 1974, enclosing for coordinated Executive Branch comments copies of S. Con. Res. 63 and 68, which would express the sense of the Senate with regard to Americans killed or missing in action in the Indochina conflict.

The Executive Branch would welcome adoption of either or both of these resolutions and hopes such action would help make clear to the communist authorities the importance attached to this subject by the Congress and the American people.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

LINWOOD HOLTON,
Assistant Secretary, for Congressional Relations.

AMERICANS MISSING IN SOUTHEAST ASIA

HEARINGS

BEFORE THE

HOUSE SELECT COMMITTEE ON MISSING PERSONS IN SOUTHEAST ASIA NINETY-FOURTH CONGRESS

FIRST SESSION

PART 1

SEPTEMBER 23 AND 30, OCTOBER 9 AND 23, 1975

Printed for the use of the
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WASHINGTON : 1975

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in the governments of the countries where our men are lost, and anyone else who would care to go there to make sure we are not engaging in any kind of intelligence activity—to do this work.

It's a humanitarian work. We stand prepared to do it. With that, let me turn this over to you.

The CHAIRMAN. Thank you, Dr. Shields. I only have three brief questions.

I talked to you informally, and you were quite enthusiastic about the select committee. You thought that we could do some good and that you did need some help. I assume you still feel that way?

Dr. SHIELDS. I certainly do. I personally welcome this. The position of the Department of Defense was that we welcome this inquiry also. We feel that certain things need to be established for the record. We are proud of our efforts, the things that we tried to do, and we feel that the record is one which should be made public.

The CHAIRMAN. You didn't mention deserters, but you told me that there are, we think, three or four American deserters in South Vietnam or Cambodia.

Dr. SHIELDS. Well, we know one man who deserted. That he was alive in South Vietnam, and then subsequently in Cambodia some months ago, prior to the fall of South Vietnam. He was seen. We do have good information on him.

Our last reports before the fall of South Vietnam indicate he was there.

There have been reports of other deserters as well, whose identities we haven't been able to establish. The number, of course, is anyone's guess.

The CHAIRMAN. We know we've got a tough job. We know there are three that we thought we were going to get back from Hanoi, and you were handling that; and the two in Saigon. Could you briefly comment on that?

Dr. SHIELDS. Yes. We did receive information that the North Vietnamese were ready to repatriate the remains of three men. We had fairly good information on these men. I believe two had been declared killed in action and one was still carried as missing.

We were prepared to do anything the North Vietnamese requested to bring about the return of those remains. They had indicated to Senator Kennedy that they were prepared to furnish that information and to get on with this. This was just before the vote in the United Nations in which we vetoed South Vietnam's and North Vietnam's applications for membership.

Their response to us was: "We are still prepared to do this, but we don't think that the time is propitious because of the things you have done and your attitude; our people wouldn't understand this," and so on.

This is another indication of the information which they have which they could give us, and we are confident that they could give us a substantial amount.

In addition to that, two young marines were killed in the final days of our stay in Saigon. They were outside the defense attaché office's compound in Saigon and an artillery or rocket round hit their position. Two of the three marine guards were killed.

September 3, 1975

We know that the remains of the two marines were taken to the Adventist Hospital, which is close by—formerly the 3d Field Hospital—and we have been trying to bring about the return of the remains of those two individuals, but we have not succeeded in that as yet. We were told that they were buried, perhaps by an American who remained in Saigon. We are trying to track that down.

We have no official contact there, of course, and we are forced to work through third parties, and it has not been effective.

I should also mention that, as a result of the military action on Kotang Island, three more marines entered a missing status. These marines were part of the military forces that were put ashore on Kotang and when the troops were all back and an accounting had been made, it was found out that these three had last been seen going toward a helicopter. They had been moved in from the perimeter but never got on the helicopter. So those are our most recent three missing in action.

The CHAIRMAN. Mr. Gonzalez?

Mr. GONZALEZ. So in terms of numbers, what or how many would you feel there is reason to believe are alive?

Dr. SHIELDS. That's the most difficult question of all to answer. My own feeling—and anyone working in this area simply forms his or her own judgment—frankly, is one of question.

There were men alive at one time. Whether these men are still alive or not is an open question.

There are men who should have been captured, who were alive, having successfully ejected from an aircraft, who were seen alive on the ground, who talked to the men in the air and said, "Here comes the enemy, and I'll see you when the war is over," and of whom we have heard nothing more.

When you look at the other side of the question, North Vietnam, the P.R.G. and the Pathet Lao have steadfastly denied there are any living Americans held prisoner now. They make very fine distinctions as regards a man who died in captivity and a man who was dead when he was found. If you died in captivity, your name came out on a list. If you didn't, your name is not on a list; and if you were buried alongside 23 other men in North Vietnam, your remains were not repatriated.

I really don't know. I think that the only way to find out is to put our people and the experts in teams who would be able to go to an area and talk to the people on the ground. That's probably the most fruitful source of information, talking to the people who live in the area, the indigenous residents who know something about what happened in a particular time, at a particular place.

As for how many men are still alive, it's certainly possible that some men are, but throughout this whole thing we have not been able to put our hands on a missing man who is alive and say he is alive.

I'll give you a quick example of this. A helicopter pilot was shot down with his crew in Cambodia. Some members of the crew were taken prisoner, were repatriated, and told us about the other members of the crew. The one man was alive, but had a badly infected leg. He was taken out of prison camp in very bad condition. We were told he was taken to a hospital. His name was given to us by the P.R.G., and he was identified as having died in captivity. The Americans who were there with him felt that was probably correct, that he did not survive.

We received information from an enemy prisoner or defector—I can't recall which—who told us of an American who had been taken into a camp at such and such a time, at such and such a location, and had died of his wounds. It all pointed to that man.

On the other hand, we were told, from a source who had access, without any question, that Prince Sihanouk, in China had been sent a telegram from Communists in Cambodia, and in this telegram the Cambodian officials identified two men by name as having been captured and were being held at that time. Warrant Officer Varnado's name was on the list. He was the man that the others thought died in captivity.

Now, all of our information indicates that Warrant Officer Varnado died, that he, in fact, did not survive. We feel that telegram was either incorrect or was misinterpreted by the individual who saw it, but he did see a telegram. The names were good. In fact, it's the best example of intelligence we have ever had in which people were mentioned by name as having been captured. So I don't know if any missing are still alive. I can only say that we have to find that out through investigation.

Mr. GONZALEZ. What lines of communication are yet available to you—official and unofficial?

Dr. SHIELDS. Well, we can communicate through third parties. Paris, for example, where the North Vietnamese and the P.R.G. have representatives, is a good place for us as far as communications are concerned.

Third countries can make inquiries on our behalf. The United Nations, for example, has some people in Saigon who have been working on the problems there, and we can communicate in a very low, and probably ineffective and inefficient way, through that channel.

Paris is probably the best place for contact we have, the best channel.

Mr. GONZALEZ. Is there any direct contact, say, into Laos yet, or is that also shut off?

Dr. SHIELDS. No; I am remiss in not having mentioned Laos. We are still in Vientiane. We have an Embassy there. We have officials who are charged specifically with this task of accounting for the missing from our side.

We do have contacts there but the Pathet Lao, in effect, run that government now. They have not been cooperative in any way at all; so, although we have contacts, they really haven't availed us very much.

Mr. GONZALEZ. Well, how reliable—how helpful are those contacts in Paris?

Dr. SHIELDS. I think that they potentially are very helpful. If we begin a dialog and we can continue the dialog, it will probably begin in Paris and Paris will probably remain a major point of contact.

As of yet, it hasn't been especially helpful, because we have really been able to do nothing. That really is the record that we had in Saigon, where we were negotiating across the table, face-to-face, in the Four Party Military Team forum.

Mr. GONZALEZ. What is the reason for the breakdown in the negotiations, based on article 8(b), that you referred to?

Dr. SHIELDS. The breakdown, of course, came early and at one point we were told that: One, we were not implementing the cease fire because of our continued support of South Vietnam, that Thieu was still President, and as long as he was there he posed an obstacle;

Two, that we did not allow for the free transit of Communist authorities throughout South Vietnam. They also wanted to erect monuments and memorials, and that was blocked. Until these things were done, and these other conditions had been met, they couldn't go forward in this area.

One point that the Communists have always made to us—and, if you will, go back to the negotiating history in Paris and anywhere else—they would always give us a list of terms which they required and prominent in that list, was the question of economic reparations.

That, of course, was key, but it was a whole series of things, and these things would change.

When South Vietnam fell, the question of Thieu became moot; the question of access to that territory, the same.

The question, then, became one of diplomatic recognition and economic reparations.

Mr. GONZALEZ. Is the other side raising any issues about the presence of the Vietnamese refugees in our country, particularly those who say they want to go back to Vietnam?

Dr. SHIELDS. That is a very interesting question because that is another hat that I wear right now in the Defense Department. I am the Defense representative on the Inter-Agency Task Force on Refugees.

We have about 1,500 on Guam who did want to go home. We are doing everything we can to get them back to South Vietnam. They have been told they are not welcome, that Radio Hanoi, for example, has said that they are not welcome back in South Vietnam. We even endeavored to make official arrangements through the U.N. and other ways to get them back. That hasn't really seemed to be an issue though, on the accounting side.

Mr. GUYER. It's not my turn, Mr. Chairman, but on that point, Mr. Gilman and I were on Guam and talked to some of those who did want to go back, and I think just today there is on the bulletin board an announcement that there is a boat ready to take 1,600 back. It will take a couple of weeks to get there, and they have already made plans.

Dr. SHIELDS. This is our last alternative. We are hopeful that the United Nations High Commissioner for Refugees, who is coming back from Hanoi today, will have worked something out. That is the last alternative, really, and it's not a good alternative, but these people are determined to go, and it's been a very hot and sensitive situation on Guam.

The CHAIRMAN. Mr. McCloskey?

Mr. McCLOSKEY. Dr. Shields, I want to ask a very pointed question. Back in 1973, in January I think, this Congress probably would have voted a reasonable sum of money to get our POW's back. I think we all felt whatever our views were on the war, that getting the POW's back was of crucial importance.

Now we have got a given number of live bodies, we have got bodies of two marines that we know of, plus a number of remains, plus the opportunity to identify and finally determine the remains of a number

BY WIRE VIA GUAY CHANNEL

~~TOP SECRET/SENSITIVE/EXCLUSIVELY EYES ONLY~~

March 20, 1973

FROM: Brent Scowcroft

TO: Colonel Guay

Please deliver the following message to your customer *Wednesday morning* for Le Duc

The from Henry A. Kissinger.

BEGIN TEXT: The U. S. side has become increasingly disturbed about the question of American prisoners held or missing in Laos. As the DRV side well knows, there is a firm and unequivocal understanding that all American prisoners in Laos will be released within 60 days of the signing of the Vietnam Agreement. The DRV side has on many occasions solemnly reaffirmed its responsibility to carry out this understanding which was one of the fundamental considerations underlying the US signature of the Vietnam Agreement. Despite this background there has been almost no progress on this issue and the deadline for release is now only a week away.

In its message of March 14, the U. S. side once again registered its strong concern and asked for an explanation from the DRV side of the statements made by the LPF representative in Vientiane which were contradictory to the understanding with the DRV side. There has been no response to this message. Indeed in the past week there has been further evidence that the DRV and its allies are not taking their obligations seriously. Further conversations between US and LPF representatives

~~TOP SECRET/SENSITIVE/EXCLUSIVELY EYES ONLY~~

DECLASSIFIED
EO 12356, Sect 3.4
NSC, Van Tassel authority 9/5/92
By AM NARA Date 4/15/92
(SA 49)

~~TOP SECRET/SENSITIVE/EXCLUSIVELY EYES ONLY~~

-2-

in Vientiane have proven completely unsatisfactory. Furthermore, on the March 13 the DRV representative to POW sub-commission informed the American representative that the Pathet Lao were responsible for the release of American prisoners and gave no assurance that this would take place by the agreed date of March 28, 1973.

The U. S. side wishes to reiterate that such an approach is totally contrary to the understanding reached by the two sides and that it expects all American prisoners in Laos to be released no later than March 28, 1973. The U. S. side holds the DRV side fully responsible for ensuring that this release takes place on schedule.

In addition, the U. S. side has made clear on many occasions, as the list of only nine American prisoners presented belatedly by the Pathet Lao is clearly incomplete. There continues to be no satisfactory explanation concerning the smallness of this list nor any assurances that further efforts will be forthcoming.

In view of the very short time left before the deadline for the release of American prisoners in Laos, the U. S. side expects an immediate response to this message and the firm assurance of the DRV side that it will live up to its solemn responsibilities. Failure to do so would have the most serious consequences. Certainly the U. S. side cannot be expected to complete its withdrawals from South Vietnam until this closely linked question is satisfactorily resolved. END TEXT.

~~TOP SECRET/SENSITIVE/EXCLUSIVELY EYES ONLY~~

NEW YORK TIMES 1 April 1973 (2)

Finality in Vietnam

The air of finality with which President Nixon heralded the American withdrawal from Vietnam Thursday night has been welcomed with gratitude and relief across the country. The nation and its elected representatives in Congress now have the right to insist that this finality be reflected in the Administration's actions.

Specifically, the continuing American bombardment of Cambodia sounds a roaring discord against Mr. Nixon's self-congratulatory utterances. None of the constitutional or strategic justifications previously offered for these acts of war exist any longer. Administration spokesmen seem to be struggling to find some new legal rationalization for the bombing raids, and it is not surprising that they are having a difficult time of it. The fact is that these raids, unless quickly halted, carry the germ of a new United States commitment to bestow open-ended authority on yet another shaky Southeast Asian leader.

The arrival in this country of South Vietnam's President Thieu could similarly create temptations for escalating new commitments. None should be necessary. Mr. Nixon stated that through his policy of Vietnamization, the South Vietnamese people now have the strength to defend their right of self-determination. On his words, therefore, there is no need for further American military effort, in the air or on the ground in Vietnam.

The President continues to imply in dark and guarded

language that he is ready to use the power of the United States to force adherence to the cease-fire terms. Nowhere in the official records of the truce is there provision for any one nation to deal with violations by its own bilateral actions. The possibility of cheating on the truce was specifically envisaged in the Jan. 27 accords, and Mr. Nixon's negotiators devised an elaborate if utterly unrealistic mechanism for dealing with violations. Having accepted this control mechanism freely, the Administration can hardly claim unlimited license to act on its own if the system turns out to be as ineffectual as it was freely predicted it would be.

Congress now has the opportunity to insure that Mr. Nixon's rhetoric of finality is embodied in fact. Bipartisan legislation is before the Senate, introduced by Senators Church of Idaho and Case of New Jersey, providing that "no funds heretofore or hereafter appropriated may be expended to finance the reinvolved of United States military forces in hostilities in or over or from off the shores of North and South Vietnam, Laos or Cambodia, without prior, specific authorization by Congress."

Passage of this measure would assure long life to the gratitude and relief now felt across the United States at the declared end of the Vietnam war.

BALTIMORE SUN 1 APRIL 1973 (2)

Joseph Kraft

On the Road Back to Vietnam

Washington.

Even as the last of the war prisoners reaches home, and the final GI quits the rice paddies, the road is being paved for another American entry to the Vietnam war.

That is what the fateful visit of President Nguyen Van Thieu to the United States this week is all about. It is also the issue behind the President's statement on Vietnam Thursday night and the constitutional debate in the Senate over the bombing of Cambodia.

The starting point for the re-entry mechanism is on the ground in Vietnam. All accounts indicate that the cease-fire has broken down.

Much of the blame goes to the Communists. Hanoi has never abandoned the objective of unifying all of Vietnam. To that end the Communists have staged military actions in South Vietnam, and sent down new equipment on a large scale.

But just as much of the blame goes to President Thieu. In absolute violation of the spirit of the cease-fire, he has at all times denied the legitimacy of any Communist presence in South Vietnam. He has put pressure on Communist enclaves, and even Communist cease-fire officials, in ways bound to provoke military retaliation—if only in self-defense.

The United States does not have to be dragged into all of this. Whatever moral obligations (if that term can decently be used in this context) are owed by this country to South Vietnam can be more than honored by the dispatch of military hardware.

Moreover, the cease-fire agreement itself provides "a diplomatic remedy against its breakdown. That is the 12-power conference, including Russia and China, which met in Paris February 26 to endorse that agreement.

But President Nixon, now as in the past, seems chiefly concerned to build up South Vietnam against Communist pressure. Even in announcing the cease-fire, Mr. Nixon, in direct violation of its spirit, recognized the Thieu regime as "the sole legitimate government of South Vietnam."

This week the President will accord General Thieu the honor of a summit meeting at San Clemente, Calif. Then he will send President Thieu cross-country on a tour clearly designed to thicken further the American commitment to South Vietnam.

Mr. Nixon has already spelled out the implications of that commitment. In his press conference of March 15 and in his nationwide TV address Thursday night, the President asserted the principle of unilateral American military intervention to prevent the Communists from violating the cease-fire. Despite the turmoil it would unleash in this country and the ill will it would rekindle abroad, President Nixon is prepared to resume bombing in Vietnam to save the Saigon government.

The more so as resistance inside the administration to the President's penchant for intervention in Vietnam is receding. Melvin Laird, who used all of his weight against intervention in Vietnam, is no longer Secretary of Defense. His place has been taken by Elliot Richardson, who has shown himself in several posts as a man marvelously ready to take a complaisant posture in the face of White House pressure on issues of principle.

So the task of starting a barrier against re-entry to the war now devolves entirely on the Congress—which means the Senate, for once there are a couple of good handles for Senate action.

First, there is the matter of constitutional authority for further use of force in Indochina now that the prisoners are home and American forces out. Senator Charles Mathias of Maryland, the keeper of the Republican conscience, expressed a widely held view Thursday when he declared that there "was no authority in the Constitution or in statute" for bombing Cambodia. But that lesson needs to be driven home, and applied to Vietnam in public hearings.

Second, there is the matter of the 12-power conference set up to guarantee the cease-fire. The administration has done nothing to use that diplomatic alternative to unilateral military action. That point—end in particular the stance of Mr. Nixon's friends in Moscow and Peking—also needs to be driven home.

To be sure, nobody in the Senate has a stomach for reopening the Vietnam issue. But if the President keeps pressing forward, there is no alternative. The country needs to be warned about the dangers of further commitment in Vietnam, and the right agency is a new set of hearings by the Senate Foreign Relations Committee.

WASHINGTON POST 3 April 1973

Message for President Thieu

For signing the Paris agreement, Hanoi got the bonus of a visit from Henry Kissinger. For signing the same agreement, and doing his part to permit extrication of American prisoners and forces in the agreement's first 60 days, President Thieu has been rewarded even more handsomely with an invitation to San Clemente. Mr. Nixon received him there conspicuously yesterday. But just what the visit is meant to bring is unclear.

By receiving Mr. Thieu, Mr. Nixon demonstrates to all that he regards the Vietnam agreement as much more than a figleaf contrived only to cover American combat disengagement. He also demonstrates—to Hanoi and to Mr. Thieu's Southern political rivals in particular—that Mr. Thieu still has the American seal of approval. To be defined not only in terms of what political advantage it may confer but in terms of continuing economic aid, arms replacement and diplomatic support. No one—or so Mr. Nixon presumably hopes—can fail to get the message that when he promises, he delivers. The whole structure of his great-power diplomacy is based on persistent efforts to get that message through.

If that were all, American citizens might throng the streets to hail President Thieu: what an easy way to show your support or, if you feel another way, to bid him your (and his) last hurrah. The question is whether he is being told by Mr. Nixon that if he gets in serious trouble, the United States will again bail him out. That this may be precisely what Mr. Thieu is being told is surely implied by the calculated way in which Mr. Nixon has issued his scarcely veiled threats to resume bombing Hanoi if the North Vietnamese do not behave.

Frankly, we are uncertain how to get across to Mr. Thieu—or, for that matter, Mr. Nixon—the fundamental notion that the United States has given South Vietnam more than a reasonable chance to stand on its own and that, regardless of what the other side now does, American support will be limited to categories specifically permitted in the Paris agreement. Despite the administration's current contention, the Paris agreement does not say that if one side breaks its terms, the other can follow

suit. Rather, the agreement set the limits—which do not include more bombing—within which the United States could honorably end its own direct involvement and go on indirectly supporting Saigon. The agreement also binds the United States to use its influence to induce Saigon to respect the agreement. It would seem obvious that this is the path by which Washington acquires some leverage by which to induce Moscow and Peking to restrain Hanoi.

We would not expect President Thieu to be conversant with the niceties of the United States Constitution. We would, however, expect President Nixon not only to be conversant with the constitutional implications of further American military support for Saigon but to make it his business to clear up any misunderstandings Mr. Thieu may have on this score.

The Constitution does not authorize the President to bomb foreign countries at his own discretion. It does not say that, to help enforce shaky cease-fire agreements, the President is entitled to make war as he sees fit.

Some may say that this position amounts to a death warrant for President Thieu. Our authority for rejecting this argument is Mr. Nixon's own claim of smashing success for his efforts to ready South Vietnamese to fight their own battles, and his own high estimate of the determination and resourcefulness of President Thieu. Granted, it will be a novel experience for Mr. Thieu to rule without direct American combat support. But he will still have the other ample forms of American support permitted by the Paris accord. He will also have the extra incentive derived from knowing that his fate is in his own hands. We should all be delighted to accept President Thieu's thanks for the great effort the American people have made in South Vietnam's behalf. The word the American people most want to hear, however, is that this effort has finally given South Vietnam the capacity to fend for itself. The rest of it—the will, the courage, the patience—has always been something only the South Vietnamese can supply.

WASHINGTON POST - 4 APRIL 1973 PAGE 1

Bombing Rationale Is Sought

By Murray Marder
Washington Post Staff Writer

Only a week after the last American troops left South Vietnam, the barricades are rising each day in Congress to challenge President Nixon's authority to continue bombing in Cambodia.

The contest is still in a positioning stage on both sides, hearings in the Senate and House, illustrated yesterday. A war-weary Congress, often outmaneuvered by the executive branch in the past, over Indochina war powers, is reluctant to launch a new frontal challenge over Cambodia. The national mood is still quiescent about the remnants of war in Indochina that refuse to go away.

But all the prospects are that a confrontation over presidential war powers in Cambodia is coming, and each side is gearing for it.

Administration officials privately concede that the hopes they held when the Vietnam cease-fire was signed Jan. 27 for also enveloping the conflict in Laos, plus the more complex tangle in Cambodia, have crumbled considerably since January.

The Nixon administration is far more on the defensive over the use of presidential powers in Cambodia than the United States ever has been for justifying the use of American power in Indochina.

All the older justifications have been stripped away over the years.

The Gulf of Tonkin Resolution of 1964, which the Johnson administration reauthorized, was repealed Jan. 12, 1971, with the Nixon administration stating that it was not depending on the resolution anyway.

The Southeast Asia Treaty, also invoked by President Johnson, does not apply to Cambodia. The government of Premier Lon Nol disclaimed inclusion in SEATO when it came to power in March 1970, as ousted Prince Norodom Sihanouk similarly excluded Cambodia from coverage.

In addition, the Vietnam cease-fire accord states that "North and South Vietnam shall not join any military alliance or military bloc," and it also repudiated support for "the neutrality of Laos and Cambodia." Thus there are no alliance ties that can apply to Indochina to justify employing U.S. arms. If existing agreements and declarations are honored.

Through the Nixon administration years, the declared constitutional justification for the use of armed forces in Indochina was to protect the withdrawal of U.S. troops. Before and since the wars were all withdrawn from South Vietnam, legal experts searched the statute books seeking rationalizations for continued American bombing of Communist troops in Cambodia.

There are no easy answers, and one administration source yesterday, echoing a rueful refrain several

times, rationalizations have been produced in the State Department's legal office, and the most recent version is now reported awaiting White House action—with concern that it might only widen the dispute.

What have been produced are variations on two generalized themes: the President's constitutional authority as Commander-in-Chief to "pursue actions in which he has been engaged," and Article 20 of the Vietnam cease-fire accords. This article calls for "an end to all military activities in Cambodia and Laos," plus a withdrawal from those countries of all troops, military advisers, personnel and war material.

Laos, on paper, has a cease-fire, signed Feb. 21, but still awaiting any enforcement provisions. Cambodia still lacks not only the glimmer of a cease-fire agreement, but even identifiable participants to begin negotiating one. A unilateral cease-fire declared by the Lon Nol government was ignored by the Communists, and while American officials deplore the continued fighting by North Vietnamese troops there, the bulk of the battle actually is conducted by indigenous Red Khmer forces.

This "kind of a lingering corner of the war" in Cambodia, as it has been described by Defense Secretary Elliot L. Richardson, is plaguing U.S. strategists more than they will admit in public. The best evidence is the continued daily bombing by American B-52s. This is what has aroused the congressional challenges to President Nixon's authority to pursue that war, originally justified solely in defense of U.S. troop withdrawals from South Vietnam.

Richardson, before a House subcommittee yesterday, elaborated on the alternative argument that the Nixon administration has sought to develop: It turns on the failure on the Communist side to live up to all the terms of the Vietnam cease-fire, with its cross-references, through Article 20, to Cambodia and Laos.

"If the President had the authority to pursue the cease-fire agreements," said Richardson, "he has the authority to secure adherence with those agreements." Therefore, Richardson contended, "He needs no new grant of authority to continue doing the kinds of things he was doing before the peace agreement was signed," when it is "not being adhered to."

The administration is now seeking to invoke a presidential right to enforce an international agreement "which was not submitted to Congress for ratification."

Secretary of State William P. Rogers told the Senate Foreign Relations Committee Feb. 21 that there was little "time" to submit the Jan. 27 Vietnam cease-fire accord for ratification. I do not detect any opposition to it, and most importantly, it contained

no "ambiguous phrases and clauses and provisions." To try to spell them out, said Rogers, would have killed any accord.

What is at issue, Sen. Jacob K. Javits (R-N.Y.) has said, is not whether U.S. interests are served by bombing in Cambodia, but whether "the President alone" can make such a determination.

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Critics on Capitol Hill who include increasing numbers of Democrats and Republicans, scoff at this interpretation. "The issue," said Sen. Thomas F. Eagleton (D-Mo.), who joined the outcry yesterday, "is whether the President can legally continue his action without the authorization of Congress. I must answer that question with an emphatic no."

What makes the Cambodian dispute especially sensitive is that in the intense debate that followed the American thrust into Cambodia in 1970 to attack Communist sanctuaries there, unusual legislative restrictions were placed on U.S. operations there to prevent "another Vietnam."

Not only were American combat troops and military advisers barred from Cambodia, but strict limits were placed on the numbers of Americans who could be in Cambodia at any time—300.

Arthur W. Hummel Jr., deputy assistant secretary of state for East Asian and Pacific affairs, told the Senate Foreign Relations Committee yesterday that it has been necessary to "juggle" Americans in and out of Cambodia to stay within that force level. To do so, said Hummel, sometimes U.S. personnel based in Cambodia have to leave for a few days when "visitors" come in.

U.S. failure to give air support to the forces of Cambodia, said Hummel, in defense of the administration's new rationale, "could have a deleterious effect on the achievement of an actual cease-fire in Cambodia."

"I strongly disagree with the administration's justification," countered Sen. Claiborne Pell (D-R.I.), and see it providing further grounds for entanglement.

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NEW YORK TIMES
4 APRIL 1973 Pg. 4

Fulbright Asks End To Military Aid Over 2-Year Period

WASHINGTON, April 4 (AP)

—Senator J. W. Fulbright introduced a bill today to phase out foreign military grants and military assistance missions over a two-year period.

Mr. Fulbright, Democrat of Arkansas, who is chairman of the Foreign Relations Committee, said the world had changed since the United States started military aid with a Greek-Turkish program 34 years ago.

"The cold war is over," Mr. Fulbright said in a Senate speech. "Yet the policies of the era linger on in the military aid program."

"It is time to wipe out this relic of the past," he continued. "The bill I am introducing today will give it a fitting burial."

In the two year phase-out period, the Fulbright bill would require recipient countries to pay for 50 per cent of the assistance in their own currencies to be used to meet United States expenses within those countries.

Loans would be permitted and sales on credit would be financed where possible through Government guaranteed commercial bank loans.

Authorized foreign military grants would be reduced to \$250-million for the year beginning July 1, compared with President Nixon's budget request of \$685-million. Half the \$250-million would have to be paid in local currency by the recipient countries.

Recipient countries also would have to pay half of the cost of the United States military aid missions.

Mr. Fulbright said there are 2,300 United States military advisers assigned to aid missions in 47 countries around the world.

Since World War II, he said, the United States has provided \$180-billion in assistance to foreign countries, \$40-billion of it in military and related aid.

NEW YORK TIMES

4 APRIL 1973 Pg. 17

U. S. Continues Bombing HONOLULU, April 3 (UPI)—American pilots flying B-52s and fighter-bombers continued today to bomb Communist targets throughout Cambodia.

The United States Pacific command here would say only that the bombings were conducted at the request of the Cambodian Government.

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DES MOINES REGISTER
4 APRIL 1973 (17)
Threatening North
Vietnam

Defense Secretary Elliot Richardson's statement that renewed U.S. bombing of North Vietnam and mining of Haiphong harbor are "among the kinds of things that could be done" if President Nixon decides North Vietnam isn't living up to the "peace agreement" was meant to frighten North Vietnam. It should frighten a lot of Americans, too.

President Nixon has made the same threat, in less explicit form, over and over. He also said recently that North Vietnam is not keeping the peace agreement. He is in danger of locking himself into a situation from which it will be difficult to escape. Threats of war are always dangerous for a government leader.

This peace agreement is not being well kept, by either side. The United States has done better by it than either the Saigon government of South Vietnam or the Viet Cong or North Vietnam. But North Vietnam accuses the United States of serious violations.

One violation by the United States is turning over bases in South Vietnam to the Saigon government when the agreement calls for "dismantlement" and removal of all "armaments, munitions, and war materiel." The United States has taken home the equipment it wanted, but it did leave the rest in usable shape, and it rushed great quantities of planes, tanks and supplies to the Saigon government in the months before the agreement was signed.

Another violation charged against the United States is its official statements that it continues to recognize the Saigon government as the only legal government in South Vietnam. North Vietnam's view is that the peace agreement gives the Viet Cong "Provisional Revolutionary Government of South Vietnam" equal status in areas it controls. This is an arguable point, and a subtle one. But the text of the agreement has a good deal of support for the North Vietnamese position.

The biggest violation of the peace agreement lies in the continued fighting. The cease-fire has not become effective. Both sides blame the other for that. The United States claims an alibi—its troops are not there. North Vietnam blames it anyway, for encouraging or permitting the Saigon government to fight on.

It would be a grave mistake for the United States to decide the peace violations by the other side were intolerable and jump back into combat again, after four years of step-by-step extrication. The peace agreement is hard to make work at best, and it is full of ambiguities and debatable points. But one thing

about it is clear, and in line with the deepest feelings of the people of the United States. The agreement calls for the United States to get out, and stay out, and leave the Vietnamese to settle the future of Vietnam.

NEW YORK TIMES - 20 APRIL 1973
Bombing for Peace?

United States bombers rain death on Cambodia. South Vietnamese troops rally across the Cambodian border. American bombers strike intermittently in Laos—it has all the aspect of the rerun of a bad movie.

And yet, thus far the American public seems largely unconcerned about this repetition of the sordid history of United States escalation in Indochina. "How short our memories! How still our voices!" laments Senator Eagleton. Is it possible that Americans have forgotten so soon the sour lessons of the past decade? Can it be that public opinion is genuinely immobilized by what Mr. Eagleton has suggested may be "a stupefying cynicism about the whole governmental process?"

Few Americans today would knowingly advocate heavy re-involvement in Indochina. Yet, for the time being at least, many appear content to accept the argument of Administration spokesmen that the intense bombing in Cambodia and Laos is merely designed to stabilize the tenuous peace of Paris. This may be a dangerous delusion.

Bombing cannot solve the complex political problems left unresolved in the Paris agreements. The indiscriminate use of United States air power in Cambodia, according to Western diplomatic observers, has only increased the alienation of the people from the unpopular American-backed regime in Phnom Penh, which has just undergone a face-lifting that appears largely cosmetic. Bombing cannot bring peace, nor does it reflect honor on the United States when a foreign diplomat is moved to observe that "the Americans are throwing air support around like a mad woman."

The most disturbing aspect of the continuing bombing in Cambodia and the renewed if sporadic bombing in Laos is the Administration's underlying assumption that it has the power and authority to enforce its American peace throughout Indochina, without regard to the will of the peoples there, to constitutional processes at home, or to public opinion abroad. This was the fundamental error that led earlier Administrations into the Indochina quagmire in the first place.

It is one thing to try to hold the Communists to their side of the January agreement through use of what Secretary of State William P. Rogers has described as "diplomatic devices"—a category in which he includes the withholding of promised economic aid from North Vietnam and even the suspension of mine-sweeping operations in North Vietnamese waters. But to go beyond such devices into arbitrary Presidential use of American air power to try to enforce the peace could lead this country inexorably back into Vietnam, where the Paris accords are also crumbling.

Legislation proposed by Senators Church, Democrat, of Idaho, and Case, Republican, of New Jersey, which would bar re-introduction of United States military forces in or over any part of Indochina without express Congressional consent, is an appropriate vehicle to compel the President—and the public and Congress—to think twice before risking full-scale repetition of the costly mistakes of the recent past.

ST. LOUIS POST-DISPATCH 6 April 1973 (17)

The Illegal War In Cambodia

By ordering the continuous heavy bombing of Cambodia in support of the Lon Nol government, President Nixon has shown disdain for the Constitution, which confers on Congress the power to declare war, and for laws of the United States, through which Congress in several instances has withdrawn its legislative authority for continued military operations in Indochina, including Cambodia.

The extent of Mr. Nixon's contempt for the law and for the legislative branch of the Government is underscored by his failure to even report to Congress on his actions in Cambodia, to say nothing of explaining and legally justifying them. He has left that task to unofficial spokesmen in the Senate and in the State and Defense departments. And they have fallen back upon the flimsiest imaginable arguments.

Listing them in descending order of importance, the arguments are that the President, under his powers to conduct foreign policy and to command the armed forces, has the authority to enforce the settlement of the Indochina war; that a Circuit Court of Appeals, in *Orlando vs. Laird*, upheld the legality of the Indochina war by noting congressional appropriations and other acts supporting the conflict; that U.S. help has been requested by Lon Nol; and finally that the President is justified merely by the fact of his re-election.

None of these arguments can be sustained in even the most tenuous way on the basis of the record of what has happened. Cambodia was not a party to the Paris agreements ending the war, nor do these accords specify any Cambodian cease-fire deadline or Cambodian political settlement. Nor, as Senator Eagleton has pointed out, do the Paris accords contain any enforcement machinery with respect to Cambodia, as they do for Vietnam—although the accords expressed the vague objective of ending military activities there.

As for the *Orlando* decision, it came before the repeal of the Gulf of Tonkin resolution, which was the original congressional act cited in support of the Vietnam war. Since that time

Congress has enacted the Cooper-Church amendment, which specified that no funds could be expended to conduct combat activity in the air over Cambodia and the Javits amendment, which stipulated that aid extended to Cambodia should not be construed as a U.S. commitment to defend that country. Nor can the U.S. be said to have any treaty commitment to defend Cambodia. In fact, Lon Nol explicitly rejected the SEATO pact, which itself is of dubious applicability to Cambodia, a country that Mr. Nixon originally invaded without legal authority.

With the withdrawal of all U.S. military forces from Vietnam and the return of all U.S. prisoners, the President lost the last vestige of legal authority to conduct military operations in Cambodia—the 1971 Mansfield amendment having proclaimed the "policy of the United States" to be the withdrawal of all U.S. armed forces from Indochina "at a date certain," contingent only on the release of American prisoners.

Lacking even the pretext of a need to protect American forces or lives or property, Mr. Nixon has no justification for invoking his power as commander in chief; confronted with specific withdrawals of congressional authorizations for continued military operations in Indochina, he can hardly claim the authority to carry on a war merely on the basis of his power to conduct foreign policy.

As a means of stopping what he deems to be the unconstitutional and illegal air operations in Cambodia, Senator Eagleton is backing, for the short term, new legislation to prohibit military activity in Indochina and, for the long term, a war powers act which would limit the President's war-making powers. These are laudable objectives. But against a President who has already usurped the congressional power to make war and who seems ready unilaterally to enforce (with bombs) peace on terms which he alone has assumed the power to interpret, legislation may be of no avail. Public protest, when new U.S. casualties begin, may be the only message which Mr. Nixon understands.

A New Test In Cambodia

WASHINGTON — In the spring of 1970 President Nixon provoked what he later was to describe as "an unprecedented barrage of criticism" by sending American troops into Cambodia. The stated purpose was to clear out North Vietnamese sanctuaries in that presumably neutral country and eliminate a military threat on South Vietnam's western flank.

Last week Cambodia was back as a potential crisis for Mr. Nixon's Indochina strategy.

The military situation in Cambodia has deteriorated dramatically in the past month. American officials last week used words like "serious" and "grave" to describe the outlook for the American-equipped forces of Prince Norodom Sihanouk, whose long neutralist reign in Cambodia ended with the Lon Nol military coup of 1970, turned up last week in Hanoi and—according to a French news agency report from that capital—confided to a diplomat there that he had just spent a month with "his forces" in Cambodia. The Prince, who lives in Peking, claims political leadership of the "patriotic" indigenous insurgent groups in Cambodia.

Whatever the merits of his claims—and officials in Phnom Penh expressed doubt that he had really visited Cambodia—it underscored one important change in the situation. In 1970 the military threat to the Lon Nol Government came from regular North Vietnamese units in Cambodia. Today the Government forces are pitted against primarily Cambodian insurgent forces fighting under several pro-Communist banners. For all their numerical superiority and the hundreds of millions of dollars of American military equipment, Cambodian Government troops are performing poorly. The main reason for that, in the view of American officials, is lack of will and leadership.

The insurgents have put a stranglehold on Phnom Penh, cutting off all roads as well as the crucial Mekong River route into the Cambodian capital. Defense Secretary Elliot L. Richardson said last week the situation could become serious enough to force the United States to consider mounting an airlift of supplies and military equipment into the city.

One problem for Mr. Nixon is that he has seemed to make Cambodia a test of his policies and prestige. In 1971 he described Cambodia as "the Nixon Doctrine in its purest form." That is so, he explained, "because in Cambodia what we are doing is helping the Cambodians to help themselves . . . rather than to go in and to fight ourselves."

In some ways, of course, the United States has been fighting in Cambodia ever since the 1970 "incursion"—though not with troops but with air power, as contemplated under the Nixon Doctrine. This bombing has intensified in the past month. About 60 B-52's and 150 fighter-bombers are now operating daily over Cambodia, striking at insurgent positions in an attempt to reopen the supply lines to Phnom Penh. Yet there are political, legislative and perhaps constitutional restraints on how much deeper the President can take the nation into the Cambodian war.

Congress in 1970 imposed a prohibition on the reintroduction of American ground troops into Cambodia. Questions are being raised on Capitol Hill as to the President's authority to undertake any further military action in Cambodia—even if only air action—now that all American troops have been withdrawn from Vietnam. The general justification offered by Mr. Richardson is that the President's authority rests on his power to clean up a "lingering corner" of the war.

More critical, in practical terms, is the policy question—Is the Nixon Administration prepared to tolerate the collapse of the Lon Nol Government before the Communist-led insurgency? The Nixon Administration has emphasized repeatedly since 1970 that the United States is not committed to

the defense of the Cambodian Government. That policy, in fact, was spelled out in the Congressional mandate of military aid to the Lon Nol regime. The Administration says the current bombing is meant to force the Communists into accepting a Cambodian cease-fire.

But the rationale for the bombing could change if the military situation continues to worsen. Mr. Richardson, who at one point referred to Cambodia as an "ally," appears to be resurrecting the argument that if Cambodia fell it would endanger South Vietnam. The concern in some Congressional quarters is that the Administration may be dragged by events—and its own actions and rhetoric—into a military commitment in Cambodia.

—JOHN W. FUNNEY

ATLANTA JOURNAL — 9 April 1973 (22)

Is Cambodia to be our next Vietnam?

IN THE congressional debate now beginning over the bombing of Cambodia, and indeed over the possibility of future military operations anywhere in Indochina, the key question has been posed by New York's Senator Javits. "The issue," he said, "is not whether it is in the American interest that the bombing in aid of the central government's forces in Cambodia is substantively desirable, but rather who is to determine that fact for the United States." The answer that Senator Javits and many other concerned members of Congress, both Republicans and Democrats, give to that question is that there is no longer any reason why such decision-making should be made unilaterally by the President.

Until now, President Nixon has consistently defended his right to act independently of Congress by falling back on his constitutional powers as Commander-in-Chief. These powers, however, are vague. While U.S. ground troops remained in Vietnam he obviously required the authority to take whatever military action was necessary to protect them. It was a recognition of this right—plus a similar reluctance to do anything that might jeopardize the lives of the withdrawing troops and the chance of recovering our prisoners of war—that prevented the passage of the end-the-war amendments that Congress gave birth to over the past few years.

'Authorizations' now lacking

But that situation has changed now. No longer are there troops or POWs on the ground to protect. The Gulf of Tonkin resolution, which President Johnson had leaned on for additional authority, was repealed more than two years ago. The U.S. is not obligated to help the Cambodian government under the SEATO treaty, since Cambodia is not a member of that organization. Furthermore, the various acts of Congress under which military aid has been provided for Cambodia specifically state that this aid shouldn't be construed as a commitment to the defense of that country and, since 1970, have explicitly ruled out the reintroduction of American ground troops or advisers.

The Paris peace settlement makes no provision for one of the former belligerents to have recourse to military action if any part of it should break down. The U.S. is, in fact, expressly bound to a cessation of hostilities against North Vietnam that is to be "durable and without limit." The supervisor of the

truce in the South is supposed to be the International Control Commission and the guarantor of the entire agreement is supposed to be the international conference that met briefly at the end of February. Nobody has been at all surprised to find that neither of these groups has accomplished anything meaningful. Right from the start it was doubtful that they ever would.

Yet the Paris agreement is in serious danger of breaking down completely. The conflict within Vietnam hasn't moved, as was intended, from the military to the political level. Spot fighting is still going on all over the South; North Vietnam is illegally moving men and equipment across the demilitarized zone; and the political dialogue between the Thieu government and the Viet Cong is getting nowhere. But for President Nixon to threaten, as he has, that he would react "vigorously" if Hanoi continues to violate the agreement, is almost to invite the North Vietnamese to intervene first. They would have no qualms about claiming that the U.S. was encouraging President Thieu to renege on the peace terms.

Another long tunnel?

Clearly Mr. Nixon hopes that threats will be enough; that the conflict eventually can be switched to the political level and that the U.S. can completely disengage militarily. Whether or not this turns out to be a wild hope, the war still continues in Cambodia—and so, too, does heavy U.S. bombing in support of the Cambodian government forces.

The Nixon administration, failing to find any legal basis for its role in Cambodia, has been arguing that we have a continuing political obligation to help bring about a cease-fire there. If heavy bombing is what it takes, the argument runs, as was necessary to finally push the North Vietnamese into signing a truce, then that's what the U.S. must do. Unfortunately, all the reports coming out of that beleaguered country suggest that if the war is indeed almost over, it's the Cambodian government and army that are on the verge of collapse, not the Communists. If we are going to muck around until President Lon Nol is as firmly entrenched as President Thieu is now—which isn't all that firmly—then we could be in for another long haul. As Senator Mansfield warned the other day, Cambodia could have "the makings of another Vietnam."

That's why it's so vitally important that whatever we do next be done with the concurrence of both President and Congress. For Americans, the promise of peace in Vietnam was more than just an end to this particular slaughter. It was also to provide assurance that never again would our young men be asked to go abroad and die for reasons that wouldn't be fully explained and justifiable both to them and to their elected representatives. Ever since we all woke up at the height of the Johnson escalation and asked ourselves, "What are we doing here?" the American people have been determined not to let themselves drift helplessly into such a situation the next time. But what's going on now in Cambodia may be the next time unless Congress is finally ready to insist on regaining its proper voice in determining what is in our national interest.

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No Legal Bar Is Found To Resuming Warfare

By Spencer Rich
Washington Post Staff Writer

Despite the cease-fire agreement, the Vietnam War isn't formally over and "there is no bar to resumption by the President of hostilities" in Vietnam or Laos, a Library of Congress study has concluded.

The study, prepared for the Senate Foreign Relations Committee and released today, appears to undermine the position of President Nixon's Capitol Hill critics, who have argued that he lacks any legal basis to hit North Vietnam or Laos again, now that U.S. prisoners have been released and U.S. forces withdrawn from South Vietnam.

Without necessarily conceding the full implications of the study's conclusions, Foreign Relations Committee Chairman J. W. Fulbright (D-Ark.) declared that it means Congress should "take the initiative at least in declaring that hostilities are now ended (and) prohibit continuation or renewal of our military activities in Indochina, as has been threatened by the President."

Legislation to block U.S. reentry into Vietnam combat has already been drafted by Sens. Clifford P. Case (R-N.J.) and Frank Church (D-Idaho).

The President, on television 10 days ago hinted at military retaliation against North Vietnam if it didn't stop alleged violations of the Jan. 27 cease-fire agreements. Many critics said he lacks any legal basis to order such retaliation without the approval of Congress. But the Library of Congress study, prepared by William C. Gibbons, Allen W. Farlow and Lenore H. Wu, appears to conclude otherwise.

It states that in the absence of a formal declaration by the President or Congress that the war is over, or an international peace treaty, the war isn't over in a legal sense. And whatever presidential powers existed in the first place to carry on the war continue in effect, it concludes.

The Jan. 27 four-power agreement, the study says, "is not a treaty or agreement of peace. Nor does it 'end' the war. According to its preamble, the signatories entered into the agreement with a view to ending the war restoring the peace in Vietnam."

"On March 2, 1973, pursuant to the agreement of Jan. 27, 12 nations signed an act of the international conference on Vietnam, approving and supporting the Vietnam armistice agreement. This too is not a treaty or agreement of peace.

nor does it 'end' the war. It is a statement of intention of the parties, a binding international agreement under which the parties accept certain international obligations."

The report concludes that there appeared to be no legal bar to Congress taking action to declare the war over, but if the President rejected such a congressional declaration, the only congressional recourse would be to cut off funds for combat.

Prior to the Jan. 27 cease-fire accord, many members of Congress repeatedly attempted to force an end to the Vietnam fighting through a funds cutoff. The cutoff passed the Senate twice, but never passed the House.

Is it possible to draft legislation that will restore to Congress a meaningful role in war-making without crippling the United States in its international relations? That is the strongest argument that our responsibilities as a superpower in a chaotic world are so complex that the President must have a free hand in using our military forces without the restraint of legal formalities.

A few years ago that view was widely held. It commands less support today, not only because the perils of presidential wars have been so graphically demonstrated, but also because patient and understanding legislators have devised a bill that gives promise of restoring the constitutional balance without excessive rigidity. Credit for the bill goes to Senator Jacob Javits, but it now has 60 sponsors in the Senate.

In its present form S. 440 is a composite worked out largely by Senators Javits, John Stennis and Thomas Eagar.

This is the third of three articles by Mel J. Pusey, former associate editor of The Washington Post and author of "The Way We Go to War." The first two articles appeared on Monday and Tuesday in this space.

ten and their staffs, Senators Robert Taft and Lloyd Bentsen, who had introduced war-powers bills of their own, joined the trio for the sake of consolidating support behind a single measure. The Foreign Relations Committee held extensive hearings, and the Senate passed the bill in April, 1972, by a vote of 69 to 16.

The measure failed to become law last year because the House passed the much weaker Zablocki bill and there was time for only one meeting of the conference committee before Congress adjourned. New hearings have already been held on the House side this year, however, and new Senate hearings are scheduled for today and tomorrow. Representative Clement J. Zablocki has substantially strengthened his bill, and the prospect that a useful measure will be sent to the White House has notably improved.

It is worthy of note that these are not partisan bills designed to embarrass the President. The Republican and Democratic sponsors have worked closely together with the commendable objective of reasserting the constitutional authority of Congress and of preventing presidential wars. Both the majority and minority leaders of the Senate are cosponsors of the Javits-Sivins-Eagleton bill. It likewise has wide support among both liberals and conservatives.

Care has been taken to avoid any encroachment on the President's constitutional powers. By way of codifying the law, which Congress has a right and duty to do under the "necessary and proper" clause of the Constitution, the bill spells out the circumstances under which the armed forces could be used without a declaration of war. The President could repel an attack on the United States territory or its armed forces stationed outside of the country. He could retaliate against such attacks, and he could act to "forestall the direct and imminent threat of such an

attack." He could use military force to protect the evacuation of American citizens abroad if their lives were in imminent danger, and of course he could act under any specific congressional authorization such as the Middle East resolution.

The "later provision" does not, of course, imply that Congress might again give the President blank checks in regard to using military force, as it did in passing the Tonkin Gulf resolution. The bill specifically provides that the right to use the armed forces in hostilities shall not be inferred from any resolution unless such action is specifically authorized. Specific congressional authorization is also required for the assignment of any part of our military to the armed forces of another country that is at war or in imminent danger of being involved in hostilities.

To minimize controversy, the bill leaves undisturbed the three so-called area resolutions now on the books—authorizing the use of armed forces in Formosa, the Middle East and Cuba. If the President finds it necessary, it is anticipated, however, that one of the first actions of the President under the bill would be to review these situations and go to Congress with fresh recommendations.

One of the more delicate problems sponsors of the bill had to deal with was its effect on NATO. The NATO treaty provides that an attack upon one of its members shall be regarded as an attack upon all of them. If it is to remain effective, the unified NATO commands must be able to respond to attacks in Europe at the discretion of the President (and other NATO executive authorities) without waiting for legislative action. The Foreign Relations Committee report interprets the bill, however, as meaning that "no treaty, existing or future, may be construed as authorizing use of the armed forces without implementing legislation." This seems to say that any military action by American forces in defense of an ally in NATO would have to be approved by Congress.

The debate in the Senate makes clear that no such crippling of NATO is intended. The President could respond to an attack upon a NATO country if American forces stationed there were involved or if he deemed the attack to be also aimed at the United States. Such action would not necessarily mean full-scale war any more than a presidential response to an attack upon the United States would. In either case follow-up action by Congress would be necessary if a war had to be fought.

Congress has a legitimate interest in preventing use of the NATO treaty as a substitute for a declaration of war. A treaty ratified only by the Senate cannot nullify the war power which belongs to both houses. In reasserting its war power, however, Congress should be careful to avoid casting any doubt upon the right of the President to speak for the United States in authorizing immediate NATO action in case of an emergency. The language of the report on this point needs to be clarified.

The heart and core of the bill are Sections 4 and 5. Section 4 would require the President to report promptly to Congress whenever he must take emergency military action under the

Mel J. Pusey
Washington Post - April 10, 1973
Legislating War Powers

terms of the bill. Section 5 would forbid him to continue the hostilities thus begun for more than 30 days without congressional approval, unless Congress had been put out of operation by an armed attack. In any circumstances, however, the military could continue to fight while disengaging from the unauthorized hostilities.

In case of an outrageous abuse of presidential power to make war Congress could, by a two-thirds vote (overriding a veto), tell the President to stop in less than 30 days. And of course Congress could always extend the 30-day period by legislative action. Accelerated procedures are laid down to make certain that Congress would not be hamstrung by filibustering or other dilatory tactics. While the 30-day cut-off is necessarily arbitrary, it would allow time for reports and deliberation, and it would force Congress to act before a military build-up like that in Vietnam could take place.

The effect of the bill would be to put the President on notice that he could not undertake a military venture without explaining to Congress his action and his aims and his claim of authority. That alone would be a powerful restraint upon dubious hostilities that could not bear scrutiny or win popular support. Even more important, the bill would almost compel Congress to face the issue and to assume responsibility for the course to be taken.

Congress itself has been shamefully negligent in relinquishing into the hands of the President all but absolute control over the fate of the nation. Now it is attempting by cool and rational legislation to redress the balance and to assume its rightful place as the national policy-making body. Every American has a vested interest in the success of this undertaking, even though the details of the bills under consideration are still open to debate, clarification and improvement.

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Senators Worried By Cambodia Crisis

By Murray Marder
Washington Post Staff Writer

Senate anxiety over deeper U.S. military involvement in Cambodia intensified yesterday as President Nixon reviewed options for reinforcing the Phnom Penh regime.

Although speculation here is soaring about decisions that may follow the trip to the war zone by Gen. Alexander M. Haig Jr., only marginally increased allied activity is visible so far.

President Nixon met for about an hour yesterday with his top advisers on his return from Thailand and Indochina. The White House was silent about the outcome of the meeting.

Senate Democratic leader Mike Mansfield (Mont.) told the Senate he is alarmed by "rumors that South Vietnamese and Thai troops may become engaged in Cambodia."

From Thailand, however, Prime Minister Thanom Kittikachorn, who conferred with Gen. Haig earlier this week, was reported to have said that Thailand will immediately increase its training of Cambodian soldiers in Thailand but will not send any Thai troops to Cambodia.

Field Marshal Thanom, Agence France Presse re-

ported, said Thailand has started to deliver 40,000 tons of rice, purchased with American aid, to Cambodia by ship. Thailand may also deliver petrol and petroleum products within the next few days to Cambodia, the marshal said.

In Saigon, South Vietnamese officials have declined to discuss possible use of their troops in Cambodia until South Vietnamese President Nguyen Van Thieu returns from his world trip. Increased use of American-supplied South Vietnamese gunboats to escort convoys up the Mekong River to Communist-encircled Phnom Penh is anticipated.

Thieu and his top officials, however, have indicated opposition to any major new involvement of their ground forces in Cambodia.

White House officials indicated that neither Cambodia nor Indochina as a whole were discussed at a morning meeting yesterday of the National Security Council.

The Nixon administration has been ambivalent about just what state of alarm it wishes to project publicly about its assessment of the Cambodian problem. It apparently seeks to convey a sense of continuing concern that will focus international atten-

tion on the need for a cease-fire in Cambodia to help preserve the Vietnam cease-fire. At the same time, the administration apparently wants to avoid a crisis atmosphere implying that the Vietnam accord is in danger of collapse, after President Nixon hailed that agreement as "peace with honor."

In this murky situation, with no clear sign of President Nixon's intentions, Sen. Mansfield warned again that "there are no legal or constitutional grounds for our becoming involved in any way, shape or form in the Cambodian civil war."

Mansfield called for what the Nixon administration also is known to be seeking, "a restoration to power of Sirik Matak" in Cambodia, in place of ailing Premier Lon Nol. But Mansfield also advocated, again, negotiations with Cambodia's deposed leader, Prince Norodom Sihanouk who now claims to represent all the rebel forces.

Senate Republican leader Hugh Scott (Pa.) joined in expressing concern about the prospects in Cambodia. Scott, however, said that while it is "deplorable" that American bombing "has to continue," at the same time, "I do not want to see Phnom Penh destroyed by the advancing forces."

The Senate Foreign Relations Committee, in hearings on legislation to limit presidential war powers, attempted unsuccessfully yesterday to obtain from the Nixon administration a more precise accounting for its authority to continue American bombing in Cambodia. Chairman J. Wil-

liam Fulbright (D-Ark.) contends that the administration is using "specious legal justifications."

Charles N. Brower, State Department acting legal adviser, said the President has "constitutional authority to wind up the war" in his functions as commander-in-chief and chief executive. Brower said Defense Secretary Elliot L. Richardson and other officials "illuminated the issue" in recent weeks, and "it seems clear to me beyond a doubt that the President has full authority to conduct air strikes in Cambodia."

"I don't think they have illuminated it at all," countered Fulbright. Sen. Jacob K. Javits (R-N.Y.) challenged Brower to specify "what laws?" the President is enforcing. Brower responded, "all laws passed by Congress with respect to Cambodia."

Any prospect for using new war powers legislation to halt American activities in Cambodia was seriously set back yesterday in a statement sent by influential Sen. John C. Stennis (D-Miss.), chairman of the Senate Armed Services Committee. Stennis is recovering from gunshot wounds inflicted in a holdup last January.

Stennis, a sponsor of the war powers limitation bill, said while he hopes "the war will finally be ended" in Cambodia when the legislation reaches its final stages, "this bill excludes hostilities in which the United States is engaged on the date when it becomes law."

In other words, Stennis would not use it to cut off ongoing involvement in Cambodia.

WASHINGTON POST 23 April 1973

The Right 'Signals' in Vietnam

In suspending mine-clearing operations off North Vietnam and in halting talks with Hanoi about reconstruction, Mr. Nixon has sent just the right "signals" to indicate his concern over Communist violations of the Vietnam cease-fire. These are gestures of diplomacy, not of war: a wielding of the carrot rather than the stick. Unlike bombing, they do not raise either constitutional or political issues at home. Very few Americans, we surmise, will find it unreasonable that Mr. Nixon has taken these steps. Moreover, they are gestures of American disengagement. In our view, the mine-clearing and reconstruction offers made sense as part of the whole cease-fire package, but if there is not to be a cease-fire, then the logic of mine-clearing and reconstruction fades. Hanoi does not lack for friends who can help out at both tasks.

We see yet another positive aspect to the President's new gestures. Some administration members declare that the January agreement must be "fully carried out" and that the United States will not abide the other side's selective fulfillment of it. But the new gestures seem to suggest that this is not the President's policy: now that the troops and prisoners are out, he intends to carry out the obligations undertaken in the agreement only to the extent he deems appropriate. Exhibit A is his suspension of the mine-clearing and aid discussions. Exhibit B—quite different, of course, in its threatening implications—is his resumption of reconnaissance flights over North Vietnam. One can deplore that the complete agreement is not being smoothly consummated but it appears to us wiser to recognize, as the President now implicitly has, that the agreement is not "of a piece."

It is not, after all, that full implementation is necessary in order for Mr. Nixon to deliver on his stated war aim of assuring South Vietnam a reasonable chance to make it on its own. By past American sacrifice, by continuing American aid, by readying Saigon to fight its own battles, by using his new leverage in Moscow and Peking, by all these elements, the President has fully satisfied the requirements of his own policy. To insist on "full" implementation when it is plain that both Vietnamese sides mean to cheat just about every chance they get is merely to provide a rationale for open-ended American participation in a struggle among the Vietnamese.

Mr. Kissinger is reportedly dismayed that North Vietnam has not switched more quickly and cleanly from

the military to the political track. No doubt Mr. Nixon is similarly dismayed. One can have sympathy, especially in view of the prediction of many war critics that Hanoi and the Vietcong would make a quick switch to politics. Fortunately, however, the American mission can fairly be judged to have been accomplished, despite what has happened since January. And surely a responsible President will not elevate personal disappointment to the level of a national imperative. Those who urge the President to continue regarding Vietnam as an essential arena in which to demonstrate American will, when there is no legitimate American interest to be served by such a demonstration, are, in a word, irresponsible.

We would note that it is not that clear exactly what has happened in Vietnam since January. The administration concedes that not all violations are on the Communist side; a "preponderance" are, it says, whatever that means. Hanoi has continued sending men and supplies down the Ho Chi Minh Trail—for a purpose (a military offensive or political action) which events have not revealed—but at the same time Hanoi has, according to the Pentagon, withdrawn portions of one or more divisions from South Vietnam. In any event, it is inconceivable to us that the vaunted results of the Nixon-Vietnamization program have evaporated in just three months. For the administration to imply that, by its jitters, is careless and wrong.

American warplanes are now bombing in Cambodia within a few miles of Phnom Penh. Presumably, by continuing to move in, the insurgents can "walk" American bombs downtown. The U.S. embassy in Cambodia concedes, by the way, there is no documented evidence that North Vietnamese and Vietcong troops are fighting there. That the insurgents can withstand aerial pounding does not seem to be seriously in doubt. But whether the American-supported government of Lon Nol could survive the American bombing of its capital is in doubt. Our sense of events is that Prince Sihanouk will be back in Phnom Penh before too long. Some may be apprehensive at this prospect but we share the editorial judgment of the Star-News that, so great is Communist control in Cambodia anyway, "It is not clear that a complete Communist takeover in Cambodia would place South Vietnam in much greater jeopardy than it is in today." And Mr. Nixon has, we repeat, put South Vietnam in an excellent position to fend for itself.

There is something troubling, not to say ambiguous and a little redundant, about the President's latest decision to send Henry Kissinger back to Paris next month to confer with Le Duc Tho on obtaining "strict implementation" of the three-month-old cease fire accord. Perhaps the President means only to eat up a little more time while waiting for the military and political crisis in Cambodia somehow to settle down, and for monsoon rains to curtail whatever offensive operations the Communists may be planning in South Vietnam. It is hard to see what extra measure of threat or other incentives toward peace Dr. Kissinger can add to the "signals" already conveyed by this continued bombing of Cambodia, the resumption of air reconnaissance over North Vietnam, and the suspension of mine-clearing and aid discussions—and therefore hard to see what there is to talk about. Sure to be extravagantly publicized, the Kissinger trip would seem to commit the administration further to a hard and unilateral American line at a time when we would have thought it better served the American interest to try to associate as many other nations as possible with evolving events in Vietnam. As we suggested the other day, Mr. Nixon's problem is getting so.

What in fact does "strict implementation" of the Vietnam agreement mean? We do not condone violations, either Hanoi's or Saigon's or Washington's. But what did Mr. Nixon have in mind when he accepted the agreement? He said then he "expected" all parties to observe its terms "scrupulously." But aside from the inducements of reconstruction, mine-clearing and political relations which were written into the agreement, it provided only for certain international supervisory devices—a high have proven inadequate—to ensure that North Vietnam in particular honored its terms. Of course, Mr. Kissinger explained, when he was first presenting the agreement, "It is not inconceivable that the agreement will not in all respects be lived up to. In that case, adding another clause that will not be lived up to, specifically requiring it, would not change the situation." Precisely so.

Some may now wonder whether Mr. Nixon is not so determined to compensate for Watergate and other political deficits, and to preserve—or rather reconstitute—his handiwork in achieving a "cease-fire" that he and Dr. Kissinger have accepted the goal of "strict implementation" against their own better political judgment. This seems unlikely. Both men know Indochina deeply. In making the January accord, they could not have failed to realize the depth of the Vietnamese Communist commitment to continue working for power in Saigon; indeed Dr. Kissinger confided as much at the time. It belittles the President and his chief adviser to claim for them that they did not expect Hanoi and Saigon to keep on struggling, or to expand their struggle beyond the confines of the agreement. Surely Mr. Nixon and Mr. Kissinger

do not mean to justify further unilateral applications of American power now by saying that in January they were naive.

Nor is there public evidence to show that in January they intended only to provide a "truce" for American withdrawal of troops in exchange for our prisoners—a "decent interval" as it has been described, between American departure and whatever consequences might follow, including South Vietnamese collapse. The immense American effort to prepare Saigon to defend itself—an effort we have often joined the President in commending as a major success—argues against that kind of cynicism. So do the large loud claims of "peace with honor" which Mr. Nixon has repeatedly made.

There is, in short, a fundamental contradiction in the administration's current attitude toward Vietnam. On the one hand, we are told privately and sometimes even openly that there was always great risk in the terms of the January agreement, apart from that portion of it which directly dealt with our withdrawals and the return of our POWs; that the means of enforcement of the cease-fire terms would inevitably slip from American hands; that in the end it would be up to the Vietnamese, North and South, to work out the destiny of South Vietnam by one means or another; and that the Thieu Government had acquired the means and the capability to defend itself.

And then, on the other hand, we are told that entirely predictable North Vietnamese violations of the cease-fire somehow pose a new and terrible threat to Saigon; that massive bombing of Cambodia by B-52s is the only solution; and that we must take upon ourselves almost the entire burden of securing the "strict implementation" of an agreement which was supposed to be enforced by a presumably effective supervisory procedure underwritten by big and little powers around the world.

The President cannot have it both ways. Either he accomplished something durable and respectable in January or he was unbelievably naive about his adversaries—and the "peace with honor" which he then proclaimed was at best an illusion and at worst a fraud. We happen to believe the President made as good a deal as could reasonably be expected. And we also doubt that it can be made much better now by re-negotiation or by adopting for the United States a largely unilateral, open-ended enforcer's role. It is redundant to suppose that the maintenance of America's honor depends on what happens in a corner of Asia where this country has already fulfilled the fundamental mission of teaching an ally to fend for itself. To continue otherwise—to lunge on in search of an elusive will-o-the-wisp "peace with honor" in an area torn by rival ambitions and doomed to continuing conflict of one form or another—is to lose the essential sense of perspective the President should now be bringing to Vietnam.

Our Continuing Intrusion in Asia

The United States is elaborating its pursuit of peace in Indochina today with consultations with North Vietnam, for which there is a precise provision in the international conference agreement of March 1.

It is a marked improvement over the bellicosity that has otherwise marked American reaction to the breakdown of the cease-fire, including the American bombing of Cambodia and Laos, for which there is no legal provision whatsoever either in international arrangements or American law.

The conversations today between William Sullivan and Nguyen Co Thach, and the consultations next month between Henry A. Kissinger and Le Duc Tho, represent one of the two remedies for cheating provided in the international agreement. The other remedy is to reconvene the international conference itself, either on the joint call of the United States and North Vietnam or on the call of six or more of the 12 member nations.

Now, there is no question that cheating has been going on. It was evident in the heinous shooting down of the peace observation helicopter by the Communists. Report after report has itemized the movement of arms and men. There have been reports of cheating by the South Vietnamese; but the preponderance of the reports has involved cheating by the Communists, and their cheating has been accompanied by a deliberate program of concealment that has frustrated the work of the International Commission of Control and Supervision.

But this tragic, regrettable, dismal situation, this shocking disregard for solemn international obligation and commitment, does not sanction American military intervention, either the kind that we have seen in Laos and Cambodia or the kind that the Pentagon is now threatening in Vietnam.

On the contrary, the cease-fire agreement of Jan. 27 and the international conference agreement of March 1 deny to any outside power the right of intervention. The four nations of the International Commission of Control and Supervision are report-

ers. The "guaranteeing" of the end of the war is left to the 12-nation conference, of which the United States is but one member. The conference itself, in a document approved by the United States, reserved to itself the problem of cheating. But it invited the signatory parties "either individually or jointly" to enter consultation "with a view to determining remedial measures."

This basically reinforces the principle of nonintervention that undergirds the cease-fire agreement itself. The only direct participatory authority for the United States, as a member of a temporary joint military commission, expired 60 days after the cease-fire was signed. At that moment, North and South Vietnam were left in charge. Kissinger added his endorsement of this principle in the communique of Feb. 14, at the end of his visit to Hanoi, which said that "the two sides reaffirmed that the problem existing between the Indochinese countries should be settled by the Indochinese parties on the basis of respect for each other's independence, sovereignty and territorial integrity and noninterference in each other's internal affairs."

The operative words are worth repeating: "should be settled by the Indochinese parties."

So it was, at the end of the international conference in March, that the British delegate emphasized that peace depended solely on the parties concerned on the ground and "if they are determined that the agreement will work, it will."

Any diplomatic effort to shore up, extend and revitalize the cease-fire is to be encouraged. So the meeting today and the meeting next month are welcome. But they are robbed of some of their credibility by the continuing American bombing, by the threat of more, by the continuation of a force of American civilians that monitors, directs and intrudes into the life of Indochina as if there were never to be an end to the American commitment. These actions erode the single most important achievement of the cease-fire, which was to get the Americans, and with them the other foreigners, out of Indochina once and for all.

BALTIMORE SUN: 28 APRIL 1973(30) Pg 2

U.S. bombing called 'civil war' action

By CHARLES W. CONDRY
Washington Bureau of The Sun

Washington—Senator Stuart Symington (D., Mo.), chairman of the Senate Foreign Relations Committee's panel on United States commitments abroad, charged yesterday that America is involved in "essentially a civil war" in Cambodia, and is using its air power "primarily" to support the Lon Nol government rather than to attack North Vietnamese troops in that country.

The senator issued a gloomy report by two subcommittee staff members, James Lowenstein and Richard Moose, outlining the pervasive involvement of the U.S. Embassy in Phnom Penh in direction of the air war, and showing a drastic shift in bombing targets over the past month.

Just back from a month in Indochina, the two reported that since March 3-52 strikes had been switched from 80 per cent against North Vietnamese supply lines into South Vietnam and 20 per cent against Cambodian rebels to "close to the reverse."

In an analysis of the deteriorating situation in Cambodia, they said unless China and Russia take an active role in getting a settlement, "the war will probably continue as long as we are willing to defend from the air a Cambodian Army that does not seem to be able to defend itself on the ground."

They said American planes have been flying about 240 sorties (individual flights) a day over Cambodia since the big expansion of air operations in mid-March. Except for the strikes against North Vietnamese bases in Cambodia's eastern provinces, the sorties are tightly controlled by the U.S. Embassy in Phnom Penh where, from their description, it appears that an elaborate air-command center has been established.

This center is linked directly with U.S. Air Force headquarters in Thailand, command planes over Cambodia, forward air controllers in small spotter planes, and the Cambodian

general staff.

Involvement clarified

In his accompanying statement, Senator Symington said: "The staff report makes clear how deeply involved is the American Embassy in Phnom Penh in the direction of American air operations in Cambodia; and this, despite the clear intent of legislation that was passed so as to limit the involvement of American personnel in any war in Cambodia."

Now, he said, an air war is being fought "without public knowledge of its scope and intensity," and a new commitment is undertaken "without prior congressional knowledge or approval."

The report of Mr. Lowenstein and Mr. Moose, the senator went on, "confirms the fact that the struggle going on in Cambodia is essentially a civil war between opposing Cambodian groups and that our bombing is being devoted primarily to the support of Lon Nol."

While they called it a civil war, with America increasingly involved in internal political as well as military affairs, the two staff investigators also said the Cambodian rebels could not mount sufficient military action to threaten the government without continued support of Hanoi.

The key to a cease-fire, they said, may be to give the insurgents a role in the government. If the military situation continues to deteriorate, they added, the Lon Nol government may have no choice but to take whatever terms the insurgents lay down.

N.Y. TIMES 29 APRIL (30)

Diplomacy May Get A Chance

WASHINGTON — North Vietnam charged the United States with "brazenly and systematically" rupturing the Vietnam cease-fire agreement. Washington responded by accusing Hanoi of "direct and inexcusable" breaches in the three-month-old accord. American reconnaissance planes again flew over North Vietnam — a none-too-subtle warning of a possible renewal of American bombing.

Yet despite the angry polemics of last week and the threat of a renewal of warfare, the diplomats seemed assured of another chance to put the Humpty-Dumpty peace accord together again.

As the result of an agreement worked out with Hanoi, negotiations resumed in Paris on Friday to achieve "strict implementation" of the agreement. William H. Sullivan, the State Department's top Southeast Asia expert, flew to the French capital for five-and-a-half-hours of talks with his counterpart, Deputy Foreign Minister Nguyen Co Thach.

The purpose of the Sullivan-Thach talks, due to continue this week, was to prepare the way for a meeting in mid-May between Henry A. Kissinger and Le Duc Tho, the men who worked out the terms of the actual cease-fire agreement.

A high White House official said he thought Mr. Kissinger had a "50-50 chance" to achieve an understanding that would reinforce the agreement. But as the sharply-worded recriminations between Washington and Hanoi indicated last week, there were serious disagreements between the two sides over the causes of the breakdown of the accord.

Hanoi's View. Hanoi argues that the United States has violated the spirit of the agreement by not disengaging from Indochina. North Vietnam apparently believed that once President Nixon got his troops and prisoners out of Vietnam, he would let the Indochinese fend for themselves. While apparently not breaching the letter of the accord, Washington has given considerable military, economic and political support to President Nguyen Van Thieu and has backed up the anti-Communist governments in Laos and Cambodia.

In North Vietnam's view, this amounted to renewed "neocolonialism" by the Americans. Moreover, Hanoi has accused Washington of suspending mine-sweeping in North Vietnamese waters and of reconnaissance flights

over the North — both violations of the accord. Washington acknowledges these infractions but says they were in response to more serious ruptures of the accord by North Vietnam.

Washington's View. The United States charges Hanoi with violating both the letter and spirit of the accord. Mr. Kissinger says Hanoi had promised to bring about a cease-fire in Cambodia within a month of the Vietnam cease-fire but now seems to be giving full support to the anti-Government insurgents closing in on Phnom Penh. Washington also charges Hanoi with breaking the terms of the agreement by infiltrating men and supplies into South Vietnam.

The United States acknowledges that the Saigon forces have also committed breaches of the accord, but Mr. Kissinger says their violations have been less serious than Hanoi's.

One of the factors the White House must weigh is the deep reluctance of Congress to remain involved in that part of the world. Mr. Kissinger alluded to this when he complained to an editors' meeting on Monday that there was criticism both of the "risk" policy of threatening new air raids and the "carrot" policy of promising economic aid to Hanoi in return for compliance. In that case, Mr. Kissinger asked with some passion, "what should the United States do?"

But he did not give an answer.

—BERNARD GWERTZMAN

NEW YORK TIMES 29 April 1973 (30)

A Quarter of 'Peace'

Three months after the signing of truce in Vietnam, the United States is still at war. Not only is the end not in sight, but each day brings new intimations that the Administration is ready for heightened combat in Southeast Asia.

Since the cease-fire came into effect Jan. 27, the United States has dropped at least 150,000 tons of bombs on Cambodia and Laos. Reported violations of the formal cease-fire pacts have become routine. The question is no longer: Who is breaking peace? Rather it has become: Can Hanoi and Washington retrieve enough of the common interest they once perceived to make the fragile structure of the cease-fire hold together very much longer?

For this purpose, the two hardy negotiators who initially achieved the truce are apparently preparing to add an epilogue to the Paris Vietnam negotiations that both assumed had ended in success.

Henry A. Kissinger asked the other day, "What should the United States do?" Should a solemn international agreement, once it is "totally violated," simply be treated as irrelevant? This is hardly an easy question, even if the agreement was not "totally" violated—all the American prisoners are free. Put the basic dilemma was inherent in the ambiguities and divergent motives embodied in the Jan. 27 accords. The Administration freely entered into an agreement, including a system for dealing with truce violations, and declared itself satisfied with what was clearly perceived by many critics at the time as an unwelcome charade. One can understand the despair of the Presidential adviser now, but not his

President Nixon is ready to take the credit for disengaging the United States from the Vietnam war, but he is not ready to disengage it. It seems that the Administration retains some unmet sense of obligation to pursue Southeast Asia, and to the commitment of American resources in participation in what is officially acknowledged to be civil warfare.

The nation's elected representatives, now concluding Easter recess in their districts, find Vietnam a concern of low priority among their constituents—a predictable reaction with the fighting men and prisoners all at home. It takes little imagination, however, to foresee the possibility of making new prisoners from among the American airmen now flying their daily death raids over Cambodia, already at least one flier has been reported killed on a Cambodian mission.

Congressional moves to limit continuation of the war are building up to confront the Administration this week. Though the White House will presumably finish the time-worn baggy of preserving the President's bargaining power until his national security aide is negotiating in Paris, the first concrete test of legislative opinion will probably arrive in the House.

With little public notice, the Defense Department has requested authority to transfer \$500 million from other Pentagon accounts to pay for these weeks of intensive bombing. Significant opposition to this ostensibly routine request when the House Appropriations Committee meets in the next few days could flash a meaningful signal to the White House that Congress is at last ready to assert its responsibilities in deciding when—and whether—the military forces of the United States are committed in foreign wars.

MINNEAPOLIS STAR 30 March 1973 (12Apr)

Have we learned our lesson?

AND SO U.S. participation in the longest, most divisive war in American history is over. Or is it?

The question is not asked in jest. Nor does it attempt to negate the efforts of President Nixon and Henry Kissinger to reach an agreement that would permit the return of American prisoners and troops from Vietnam. It is asked, rather, in the context of the claim that the President has the constitutional authority to continue bombing in Indochina even though there are no longer any U.S. troops to protect.

The White House says the bombing of Cambodia is continuing because a cease-fire has not been achieved in that country. Elliott Richardson, secretary of defense, said the United States is continuing to support our ally there, and that the air strikes are being conducted at the request of the Cambodian government. We're not sure just how that government comes to be our ally, since it removed itself from the South East Asian Treaty Organization in 1970. That same year, Richardson, then in the State Department, said "the SEATO treaty has no application . . . in Cambodia."

As this and previous administrations have so well demonstrated, the justification for U.S. commitment in Southeast Asia is not engraved in stone. It can be, and has been, shifted as military pressures have shifted in Indochina, and as political and economic pressures have shifted in this country.

From changing the justification for continuing involvement in Cambodia, then, it is just one small step to justifying a reinvolvement in Vietnam. And if the White House has not taken that step, Sen. Barry Goldwater, R-Ariz., has. Goldwater, who often reflects administration thinking on Vietnam, wrote this week that the President, as commander-in-chief, has "full constitutional authority to judge that the terms of the armistice which he negotiated have not been met by the enemy and that an actual state of war continues there that carries with it his power and duty to enforce that settlement."

Two months have passed since the armistice agreement was signed, and there has yet to be an effective cease-fire. The peace-keeping machinery is impotent, and there are disquieting reports of the movement of North Vietnamese troops and weapons into South Vietnam. Under Goldwater's definition, then, the President would be justified in enforcing the Paris agreement. In plain language, that means sending the bombers back over Vietnam.

The lessons of the war do not seem to have penetrated the highest levels of Washington. It is essentially a civil war, Kissinger called it last, and one in which this country should never have become involved. The tragedy in the deaths of 46,000 Americans and the wounding of several hundred thousand others will only be compounded if this country continues with a twisted justification—the bombing of Cambodia and considers re-entry into Vietnam.

SH 99 C-9D

***** TOP SECRET ***** COPY

OP IMMEO
C
O 011102Z
FROM: COL. GUAY
TO: GEN. SCOWCROFT

TOP SECRET SENSITIVE/EXCLUSIVELY EYES ONLY

FEBRUARY 1, 1973
FOR: DR. KISSINGER
FROM: MINISTER ISHAM

1. HAVING INSISTED FOR THREE DAYS THAT THERE SHOULD BE NO LINKAGE BETWEEN DELIVERY OF ECONOMIC NOTE AND FURNISHING OF LAOS POW LIST, VY AT THIS MORNING'S MEETING (LE VESINET) SWITCHED TACTICS; HE OFFERED TO GIVE ME THE LIST IF I HANDED OVER THE NOTE. A NEW AIDE WHO WAS PRESENT FOR FIRST TIME AT YESTERDAY'S SESSION AND PROBABLY HAD JUST ARRIVED FROM HANOI, HAD PLACED A MANILA ENVELOPE ON THE TABLE IN FRONT OF HIM. VY ASSURED ME THAT THIS WAS IN FACT THE LIST. I EXPRESSED SATISFACTION AND COMPLIMENTED HIM ON THE COOPERATION THEY HAD BEEN ABLE TO SECURE FROM THEIR LAOTIAN FRIENDS.
2. I EXPLAINED THAT WE PREFERRED TO HAVE NOTE DELIVERED BY COL. GUAY THROUGH ESTABLISHED CHANNEL FOR SUCH MESSAGES AND IN VIEW OF THEIR POSITION ON LINKAGE ASSUMED THEY ALSO WOULD PREFER THAT. I SAID I WOULD INSTRUCT COL. GUAY BY TELEPHONE IMMEDIATELY UPON RECEIVING THE LIST. HOWEVER, AFTER SEVERAL EXCHANGES, IT BECAME APPARENT THAT THEIR INSTRUCTIONS TODAY WERE FOR BUFFALO TRADING ONLY. IT WAS AGREED THAT COL. GUAY WOULD DELIVER NOTE THIS MORNING AND HIS COUNTERPART WOULD HAND OVER LIST AT SAME TIME.
3. IT SEEMS APPARENT IN RETROSPECT THAT THEY HAD LIST YESTERDAY BUT WERE MAKING ONE MORE TRY TO EXTRACT NOTE WITHOUT THIS QUID PRO QUID.
4. I THEN INFORMED VY OF OUR ASSUMPTION ON RELEASE OF SOME POW'S PRIOR TO DR. KISSINGER'S ARRIVAL IN HANOI, AND VY TOOK NOTE.

6. WE WILL BE SENDING LIST IMMEDIATELY UPON RECEIPT THROUGH ESTABLISHED BOO CHANNELS.
 7. WARM REGARDS.
- END MESSAGE

***** WHSR COMMENT *****

HAK, SCOWCROFT, HOWE, LORD, KENNEDY

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OP IMMED
 O 311147Z
 FROM: COLONEL GUAY
 TO: GENERAL SCONCROFT

~~TOP SECRET~~/SENSITIVE/EXCLUSIVELY EYES ONLY

JANUARY 31, 1973

FOR: DR. KISSINGER
 FROM: MINISTER HEYWARD ISHAM

1. MEETING WITH VY THIS MORNING WAS A LETDOWN. INSTEAD OF PRODUCING LAOS POW LIST, WHICH THEIR LIAISON OFFICER IN REQUESTING MEETING HAD STRONGLY IMPLIED WOULD BE READY, VY MERELY EXPRESSED HOPE HE WOULD DELIVER OUR NOTE TODAY. REPEATED OBJECTIONS TO ANY LINKAGE OF THE TWO QUESTIONS, SAID HE HAD AGAIN CABLED HANOI ON MATTER, AND DECLARED DRV WOULD KEEP TO ITS WORD AND PROVIDE LIST AS SOON AS RECEIVED.

2. I EXPRESSED SURPRISE AND REGRET AT HIS STATEMENT, BRIEFLY REVIEWED THE POINTS I HAD MADE YESTERDAY, NOTED THAT LAOS POW LIST WAS RELATIVELY SHORT COMPARED TO OTHERS ALREADY HANDED OVER AND OUR INTEREST THEREIN HAD LONG BEEN KNOWN TO THEM, AND SAID THAT THIS INCOMPREHENSIBLE DELAY ON THEIR PART WAS PREVENTING US FROM PROCEEDING WITH THE CONSIDERATION OF ECONOMIC QUESTIONS. VY REPEATED ARGUMENT THAT SINCE QUESTION INVOLVED SOVEREIGNTY OF LAOS THEY HAD TO DISCUSS IT WITH THEIR LAOTIAN FRIENDS. HE REITERATED THAT IN THIS COMPLICATED SITUATION IT WAS TO OUR MUTUAL INTEREST THAT WE DELIVER NOTE. I SAID MY INSTRUCTIONS WERE CLEAR AND THAT WE WOULD AWAIT WORD ON LAOS POW LIST FROM THEM.

NOT RELATED
 POW / MIA'S

***** OHMSR COMMENT *****

HAK, SCONCROFT, KENNEDY, HONE, LORD

***** ~~TOP SECRET~~ ***** COPY

5. I WILL AWAIT GUIDANCE ON HOW TO RESPOND TO THEIR POINTS AND, WITH RESPECT TO NOTE AND LAOS POW LIST, WILL SIT TIGHT UNTIL THEY MOVE.

6. WARM REGARDS.

END MESSAGE

NOT RELATED
 POW / MIA'S
 NOT RELATED TO
 POW / MIA'S

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FM THE SITUATION ROOM MHP431

TO COLONEL GUAY

~~TOP SECRET~~ SENSITIVE EXCLUSIVELY EYES ONLY

JANUARY 29, 1973
TO MINISTER HEYWARD ISHAM
FROM BRENT SCOWCROFT

IN AMPLIFICATION OF MY 428, COLONEL GUAY HAS THE NOTE WHICH HE IS PREPARED TO DELIVER JANUARY 30 IF YOU RECEIVE THE LAOS POW LISTS. PLEASE TELL VY THAT WE CANNOT PROCEED IN THE ECONOMIC FIELD AS LONG AS THERE IS ANY IMPLICATION THAT WE ARE RANSOMING OUR PRISONERS. YOU SHOULD POINT OUT ALSO THAT WE HAVE SHOWN A POSITIVE ATTITUDE ON THE MINE-SWEEPING ISSUE AND WE EXPECT THE SAME FROM THEM ON THE POW ISSUE.
WARM REGARDS.

***** WHSR COMMENT *****
INFO COPIES TO: SCOWCROFT, HOWE, KENNEDY, LORD

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PAGE 01 OF 01 TOR:030/06108Z DTG:292135Z

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C-82

~~TOP SECRET SENSITIVE~~

WHITE HOUSE SITUATION ROOM

PA

DATE 01/29/73

MESSAGE ANNOTATIONS:

MESSAGE ANNOTATIONS:

MESSAGE:

IMMEDIATE

O 291721Z

P SITUATION ROOM 49425

TO COL GUAY

~~TOP SECRET SENSITIVE/EXCLUSIVELY EYES ONLY~~

JANUARY 29, 1973

FROM: MINISTER MEYHARD ISHAM

FROM: HENRY A. KISSINGER

YOU SHOULD CALL VY AND TELL HIM THAT YOU WILL HAVE A NOTE
READY TO HAND OVER TO HIM TOMORROW, BUT YOU CANNOT DELIVER IT
UNTIL YOU RECEIVE THE LAO POW LIST.
WARM REGARDS.

TCR: 029/18:10Z

DTG: 291721Z

PSN: 039844

~~TOP SECRET SENSITIVE~~

SAAA A-74

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

~~TOP SECRET SENSITIVE~~
CONTAINS CODEWORD

December 21, 1973

MEMORANDUM FOR:

THE PRESIDENT

FROM:

HENRY A. KISSINGER *HK*

SUBJECT:

Information Items

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Hanoi Releases "Official" List of POWs: Hanoi authorities in Paris have given representatives of Senators Fulbright and Kennedy an "official" list of 368 names of U.S. POWs captured in North Vietnam, of whom 20 are dead and 9 have been released; in addition, Rennie Davis accepted a copy of the list on Senator McGovern's behalf. We are checking the list against earlier information available here. The list of the dead also contain their dates of capture and of death. From these dates, it appears that most died immediately after capture but that 6 were held in prison for anywhere from two months to five years before they passed away. (Tab A)

NOT RELATED TO
POW/MIA'S~~TOP SECRET SENSITIVE~~
CONTAINS CODEWORD

DECLASSIFIED
E.O. 12356, Sect. 34
NSC, Van Tassel authority 9/15/92
By *ACL* NARA Date 9/15/92

UNCLASSIFIED

INFORMATION

MEMORANDUM FOR: THE PRESIDENT

FROM: BRENT SCOWCROFT

SUBJECT: Pentagon Luncheon Meeting with Secretary Richardson and the JCS, Thursday, February 15, 1973 1:00 P.M.

I. PURPOSE

To discuss with Secretary Richardson and the Joint Chiefs of Staff the return of the POWs and possible national recognition of their ordeal. You may also wish to take the opportunity to express your views on defense planning and the FY 74 budget.

II. BACKGROUND, PARTICIPANTS, PRESS PLANA. Backgrounds

-- You wished to discuss with Defense officials some appropriate recognition for the returned POWs. There are also some additional questions and potential problems which you may wish to raise.

-- The Secretary has an extensive review of Service budgets and planning for FY 74 underway. He is also embarked on a thorough review of the Defense Strategy and Planning Guidance document used by the Services as a basis for their long-term budget and force planning.

B. PARTICIPANTS: Secretary Richardson, Admiral Moorer, Chiefs of Staff, General Scowcroft

C. PRESS PLAN: None

III. Talking Points are attached.

Dissem. - 9/15/92
by 5010 - Force M. & Sec. Secs

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62

UNCLASSIFIED

TALKING POINTS

A. U.S. POWs

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UNCLASSIFIED

- 2 -

-- How do you think we should cope with the problem of those believed to have been captured, but were not on any lists given us by the Communist side?

-- Where are we in respect to the enemy's accounting for the missing-in-action?

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

UNCLASSIFIED

February 28, 1973 ✓

MEMORANDUM FOR: THE PRESIDENT
FROM: HENRY A. KISSINGER *HK*

There is little concrete information to report regarding developments on the POW issue.

Secretary Rogers has met with the North Vietnamese Foreign Minister. The meeting has just broken up and we do not as yet have a report on the substance of the discussions. We have learned, however, that the Foreign Ministers of the GVN and PRG also attended the meeting. I will report to you on the meeting as soon as we hear from Rogers.

The DRV and PRG members of the Joint Military Commission attended a meeting of the Commission today, but produced no POW list. The spokesman for the North Vietnamese delegation did say that a Colonel Hoa arrived in Saigon from Hanoi today and "may be" carrying a new prisoner list. The spokesman said that if the US side gives clear proof of their good will in carrying out the Agreement, everything will get under way without trouble.

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THE PRESIDENT HAS SEEN. SA

THE WHITE HOUSE
WASHINGTON

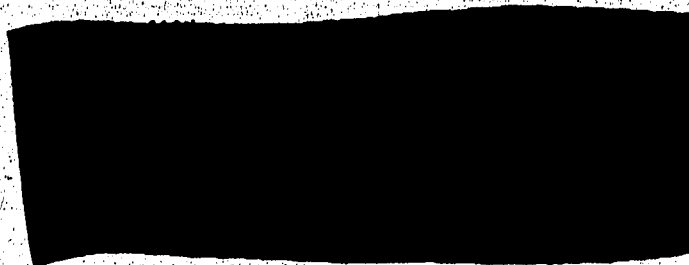
April 10, 1973

MEETING WITH DR. ROGER E. SHIELDS

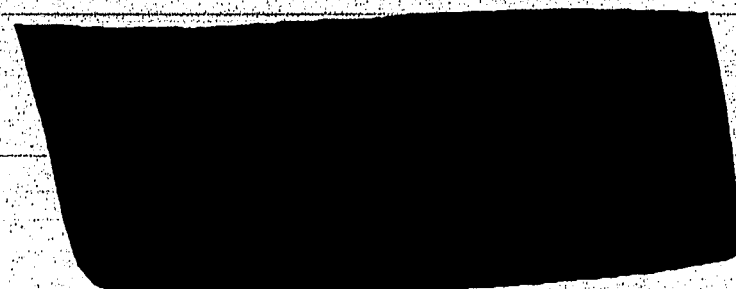
Wednesday, April 11, 1973

12:00 noon (10 minutes)

The Oval Office

From: Brent Scowcroft *BS*→ III. TALKING POINTS

- 2 -



5. Now that our prisoners are back, how are we progressing in respect to our missing-in-action?
6. Are there any indications that some of our MIA's might still be alive?
7. Do you believe the other side will cooperate in helping us account for the missing-in-action?



DECLASSIFIED
E.O. 12356, Sect. 3.4
NSC Van Tassel authority 9/15/92
By SAW NARA Date 9/15/92
(SA 99)

B-52

MEMORANDUM

NATIONAL SECURITY COUNCIL

~~TOP SECRET EYES ONLY~~

URGENT ACTION

September 13, 1972

MEMORANDUM FOR:

MR. KISSINGER

FROM:

STAFF

SUBJECT:

Negotiations Papers

NOT RELATED TO
POW / MIA'SNOT RELATED TO
POW / MIA'S

We have not yet attempted a POW paper. To be frank I am a bit apprehensive about trying to draft one and I wonder what we would gain by tabling such a document in any event. Perhaps we could get more mileage for our POW's at this stage by asking them for a list of our POW's throughout Indochina as a gesture of their good will. We could tell them that if they provided this it would obviously create an obligation of reciprocity on our part.

~~TOP SECRET / SENSITIVE~~DECLASSIFIED
E.O. 12356, Sect. 3.4

Sanitized

MEMORANDUM

Chen 1230

THE WHITE HOUSE

WASHINGTON

Noted by Piss

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INFORMATION

MAL 9, 1973

MEMORANDUM FOR:

THE PRESIDENT

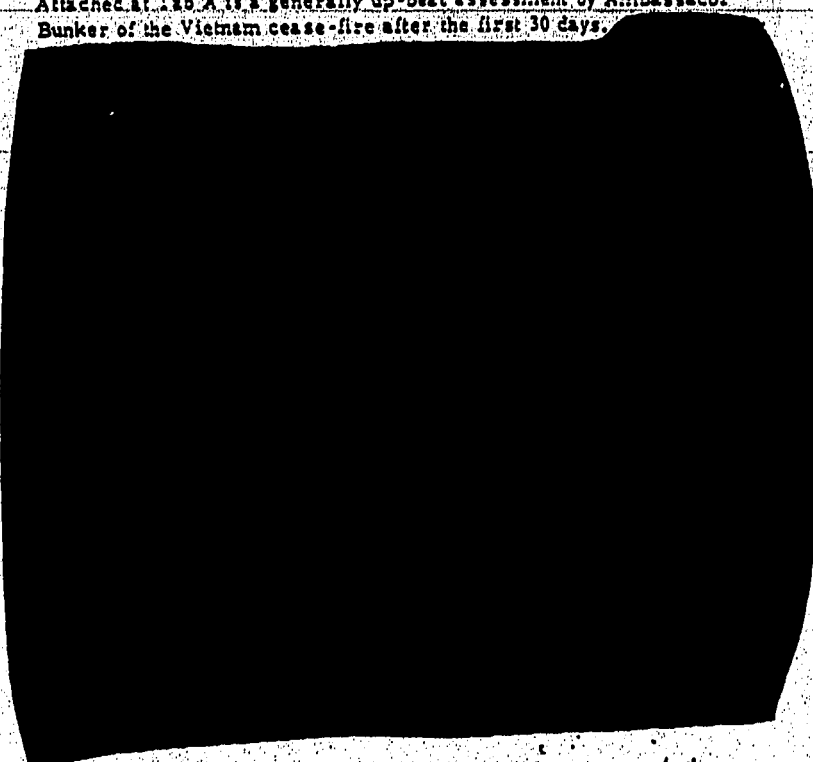
FROM:

HENRY A. KISSINGER

SUBJECT:

Ambassador Bunker's
Cease-fire Assessment

Attached at Tab A is a generally up-beat assessment by Ambassador Bunker of the Vietnam cease-fire after the first 30 days.



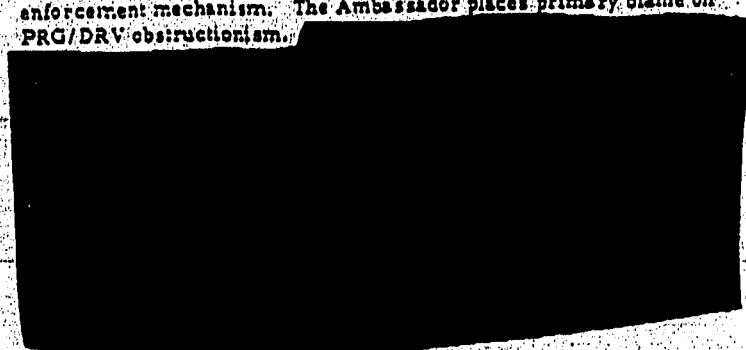
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UNCLASSIFIED

However, Ambassador Bunker states that the Four-Party Joint Military Commission has so far failed to develop into an effective enforcement mechanism. The Ambassador places primary blame on PRG/DRV obstructionism.



UNCLASSIFIED

MEMORANDUM

NATIONAL SECURITY COUNCIL

March 27, 1973

~~TOP SECRET~~
~~UNCLASSIFIED~~

MEMORANDUM FOR:

MR. KISSINGER

FROM:

RICHARD T. KENNEDY
JOHN H. HOLDRIDGE

SUBJECT:

WSAG Meeting on Southeast Asia -
March 28, 1973HEARING ON POWS IN LAOS AND QUESTIONS
AFTER OPERATION HOMECOMING

THURSDAY, SEPTEMBER 24, 1992

U.S. SENATE,
SELECT COMMITTEE ON POW/MIA AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 9:32 a.m., in room SH-216, Hart Senate Office Building, Hon. John F. Kerry (chairman of the committee) presiding.

Present: Senators Kerry, Smith, Daschle, Kerrey, McCain, Grassley, Kassebaum, and Leahy.

OPENING STATEMENT OF HON. JOHN F. KERRY, U.S. SENATOR
FROM MASSACHUSETTS

Chairman KERRY. This hearing of the Senate Select Committee on POW/MIA affairs will come to order. This is the last day of a 3-day series of hearings on the Paris Peace Accords and on a particular point in time.

It is not the last of the hearings of the Senate Select Committee. There are a number of days of hearings yet to come on a number of subjects, not the least of which will be an examination of where we are today in terms of the effort to get our answers.

We will be hearing from those who are in country, in Vietnam, Cambodia, and Laos, and examining the last year's efforts. And in addition to that, it appears as if a number of us from the committee will make a last journey, final journey, back to Vietnam to talk with the Vietnamese particularly about a great deal of the information that has been gleaned from documents and from other sources, so that we can obviously ask them a number of tough question and, hopefully, further the process.

I should say to you that in recent days, there is progress being made on the process of getting information, and a significant amount of information is currently being evaluated by DIA and by the Defense Department, and we are very hopeful that all of this will help answer a great many questions.

Before we begin the testimony today, I would like to make a few comments on a couple of different subjects. First of all, I would like to begin with an article that appeared in yesterday's Washington Post column, which suggested that the committee is unhappy because there is a document involving Dr. Roger Shields that is being withheld from the committee.

I must say to you, this has been an education for me these past months in how Washington works and in what happens with leaks

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and so forth. It is also one that has not been uplifting. It is really dismaying frustrating to find that somehow sources close to a committee can be quoted when we have bent over backwards to try to keep our deliberations and our documents close to the committee.

If there is somebody on the committee who has a different agenda, I wish they would make themselves known to us. It is just one of the great tragedies in this city, because we are dealing with peoples' reputations. As chairman, I feel very, very strongly that I do not want this committee's efforts to be sullied by personal agenda, or by people who want to be reckless with partial facts.

Now, General Scowcroft, the truth be known, has been extraordinarily cooperative. This column is plainly and simply incorrect. There is no other way to put it. Senator Smith and I have seen this document in its entirety, and the parts of it that are blacked out have no relevance whatsoever to the questions we would like to ask.

In fact, I could characterize the better part of the blacked out portion as being very praiseworthy of Dr. Shields. So, this column and this suggestion, and whoever leaked it, with their individual agenda, does a disservice to the committee, and a disservice to General Scowcroft, and to this process. And I hope that people will be more careful with other people's lives and reputations.

I also want to make it clear that there are a couple of other issues that have arisen over the last few days. And I want to make these things clear because when we talk about American POWs being left behind we deal with emotional dynamite. And when we talk about these subjects in the context of public hearings, as we have been this week, it is a little bit like trying to juggle that dynamite with boxing gloves on.

I have tried at the outset of each hearing to make very clear what we really know, what we do not know, what is allegation versus what is fact. The committee has enough real issues to deal with without manufacturing false ones, and the seriousness of our task is such that imprecision and exaggeration can cause great harm. If we could learn a lesson from the hearings so far it is that the choice of words is important. So, let me be precise about my view.

The committee has evidence, not proof, that some Americans may have been left behind after Operation Homecoming. And there is an important distinction between those. It is a distinction that Dr. Shields, Dr. Kissinger, and others have tried to draw.

Evidence was available to American policy makers in 1973 that some POWs might have been alive. Clearly, there were people listed as POW who did not return. That does not mean that they were alive. It also does not mean the converse; that they were dead.

That is what fuels this issue. And it is vital that people be very careful in discussing the abandonment of a known live prisoner. Now, that raises the issue of abandonment.

There is also a distinction between the question of knowing someone was alive in a particular place at a particular time, or having reason to believe that someone was alive at a particular place or in a country.

And that is where we are really left wrestling, most assuredly, with respect to this issue. Now, we are not prepared to draw conclusions on that at this point in time. I do not think any Member of the committee is. But that is the tension here, as to what we did know and how we acted with respect to what we knew.

Now some people ask me, you know, why is this important? There have been some notions that somehow it is inappropriate or improper for the U.S. Congress to be inquiring about this 20 years later. I am sure that I do not need to spend a great deal of time on this but, folks, this issue was not created by the U.S. Congress 20 years later. This issue is an issue of grassroots momentum.

Just this morning I had 8,200 signatures given to me in a petition from 2 people from Vermont who have travelled down here to let us know their concern. There is not a place I have gone in the last years in this country where someone has not come up to me and said, why are you not doing anything on this? Where are the answers? And the families, particularly, have carried this with them for these 20 years.

Now, at a time in our Government when American citizens feel that the Government has broken most bonds of trust with every citizen, it is hardly appropriate for us to just turn our backs and say, this is not relevant. I view these hearings not just as an effort to get to the truth of what happened.

I view them also as an effort by elected officials to try to prove that we can do our job, and that we can reestablish that sense of credibility between citizens who expect us to ask tough question. I am sorry that some people will take offense at that. I think the committee bends over backwards to be fair in it.

Now with respect to the remarks of Secretary Schlesinger on Monday, Secretary Schlesinger has not told this committee in deposition or in public testimony that he had contemporaneous knowledge that American POWs were being left behind. That was not his testimony. He, in fact, told us that as Director of the Central Intelligence Agency, he spent 90 percent of his time working on issues related to Watergate.

His remarks on Monday reflected the judgment of a serious and experienced man, based on his exposure to documents and information that he has received since that time, and the significance of what he said ought to be judged in that context.

Now, on Tuesday, and I repeat today, that I agree with Secretary Kissinger on the central point that he raised, that if Americans were being held back after the war clearly a responsibility for holding people back and for not giving us all the answers would rest with those who were in power either in North Vietnam or Laos who might have held them back. That was not a decision of Secretary Kissinger, or President Nixon, or of Congress, or of those who opposed the war.

But critical, central to this issue, raised not by the Members of this committee but raised by families again, and again, and again, has been the relationship of this issue to the American people. The relationship of our own Government to the families, and to the American people, and the question of whether or not our own Government was forthcoming with us with respect to it.

There is a fundamental question of accountability for what was done or not done with respect to real knowledge based on the facts that we either had or did not have. And there is an issue, and I think it is clear, of honesty and openness, and sharing that knowledge with the American people.

Now, those matters go to the heart of why we are here, with a very emotional issue, 20 years later. They are matters that can only be clarified by those who were there, and those who had responsibility for this issue. That is why we had a great deal of discussion on Tuesday about whether the Nixon administration downplayed or not, after Operation Homecoming, those things that it knew—the possibility that Americans, especially in Laos, may have been left behind.

Now clearly, on the facts, on the documents released as well as on the testimony, our Government believed that some people were still in Laos prior to Operation Homecoming. It is my contention that those same concerns were not reflected in public statements after Operation Homecoming. Secretary Kissinger challenged me on this. In response, I did a little digging.

I want the record to reflect, therefore, that not only did President Nixon say on March 29, quote, all our POWs are on the way home. And I acknowledge he mentioned accounting for MIAs in the same speech. But he repeated that contention several times thereafter.

On May 24, in a speech to returned POWs, he said, quote, 1973 saw the return of all our prisoners of war. In a speech on June 15, he said, quote, for the first time in 8 years, all our prisoners of war are home, here in America.

In a 54 page discussion on the Vietnam negotiations and related issues on May 3, he lists as one of the provisions of the Laos ceasefire agreement, quote, the release of all POWs within the 60-day period, except for Americans captured in Laos who were returned released within the 60 days provided for the prisoner release under the Vietnam agreement.

If there were a clearer way for the Commander in Chief to send a message to Hanoi, or to the Pathet Lao, or to the American public and to our defense and intelligence officials that the active search for a live American prisoner was at an end, I do not know what that might have been.

Now, no question, there is reference after reference in these documents to our continued desire for a full accounting for those listed as missing. But nowhere is there a reference to a belief in the likelihood that live Americans might still be held.

That is not to my mind a distinction without a difference. On the contrary, it is in this context a difference between life and death itself.

Now, this morning we will explore all of these issues in detail as we complete this particular chapter in the committee's work, and we will focus particularly on the issue of POWs in Laos. We will hear from those who served in Laos during the war, from those who sought a full accounting of our POWs in Laos as the end of the war, and from those who said after the war that there were no indications that any POW was alive.

And the questions that we will deal with here today are obviously central to the inquiry we have undertaken. For purposes of clarity, we will proceed roughly in chronological order. Now, I emphasize, the questions we ask today will be geared to try to find out what the real base of knowledge was about Laos. And we come at this in an effort to establish not a theory of the committee, but fact, and to separate it from fiction.

Finally, I heard on the television one family member, when interviewed, say not only that they were left behind in Laos, but that we have evidence that they are alive today in Laos. I would like to see the evidence that they are alive today in Laos.

I would ask whoever that was, and they may remember having said it, if they would come forward to the committee and present this evidence that they are alive today in Laos, because that is precisely what the committee is trying to evaluate. And I was somewhat taken back by that, but I would like to see the evidence.

Senator Smith.

STATEMENT OF HON. ROBERT SMITH, U.S. SENATOR FROM NEW HAMPSHIRE

Vice Chairman SMITH. Thank you, Mr. Chairman. I do not have an opening statement, but I wish to comment on the Evans and Novak column which you commented on as well, and to say that your analysis of the meeting and the comments that you made regarding General Scowcroft were absolutely correct, based on my understanding of the meeting. After reading the column and communicating with Senator Kerry, I wondered whether I was at the same meeting.

General Scowcroft was extremely cooperative. He spent almost 2 hours of his time going through document by document. I have seen the blacked out areas of that document, as has Senator Kerry. Senator Kerry is correct, and I share his assessment that the blacked out areas are totally irrelevant to the issue that we are dealing with, and want to also say that I believe that whatever the motives of those people where, whoever it was that leaked the document—I do not know what the motives were, but the information is totally incorrect.

I also want to respond, just briefly—again, in these discussions of evidence and proof, or hard evidence, soft evidence, conclusive proof, inconclusive proof, proof, evidence, these semantics are bothersome to me. And I know Senator Kerry said something about not having any proof that POWs were alive in 1973. And I just want to say I would add something, though, to that just in respectful slight disagreement.

We had not conclusive proof that some known POWs in Laos and Vietnam were dead. And I think that is a very important distinction that needs to be investigated thoroughly by this committee. We had people on lists that were called POW lists. They were not MIA lists. They were POW lists based on intelligence that our Government had at the time of the Paris Peace Accords. And we had never received conclusive proof that these people were known dead.

We did not have, perhaps in some cases, conclusive proof they were alive either, but we did not have proof that they were dead.

And so that leaves the proof question open even to those who are skeptical about whether or not we have proof or evidence. So we must not overlook that detail.

And finally, I just want to state for the record, Mr. Chairman, I do not really know too much on the background, but I do want to say that Admiral Murphy was reluctant to come here today; in fact, did not agree to come and was served a subpoena. He is not here at the moment. The hearing is not over yet, so I suppose that option is still his.

But if he is out there somewhere I just want to remind Admiral Murphy that he is under subpoena, and he has been served a subpoena to be here today to testify before this committee. He is not here at this time.

Chairman KERRY. Senator Smith, let me just say that I do not think there was a difference between what we said, in point of fact. Again, this is where we have to be so careful. I think we are in total agreement.

There were lists that suggested people were POW, and that is the central question of accountability here. Indeed, there was no indication they were dead. But most importantly, also, we have to recognize what information—well, we are going to try to discern what information we had. Let us let the testimony and the process educate all of us about that.

Senator McCain.

STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

Senator McCain. Thank you, Mr. Chairman. I do not want to delay the onset of this hearing too long, but I would like to make a couple of comments also.

One is that I want to associate myself with the remarks that you just made concerning this entire set of hearings, and also that of Senator Smith, and I want to repeat my appreciation for the conduct of this committee in our investigations, in the way that you as chairman and Senator Smith as vice chairman have handled these hearings.

We have seen a lot of publicity, we have seen a lot of stories in the press, which in my view are not entirely accurate, but the fact is that you and Senator Smith have conducted these hearings in a fair and unbiased manner, all of us operating under the assumption—operating under the assumption that there were Americans left alive in Southeast Asia in 1973.

If we did not operate under that assumption, then I do not believe that there would have been a reason for expenditure of these funds and the time and energy and the efforts that we have gone into. Having said that, I believe it is important to point out that we have yet to find evidence of a conspiracy, that there was active participation in a conspiracy.

At the same time, I think it was brought to light during the hearings yesterday and with Mr. Schlesinger—it made all of us recall the very painful period of time, 1972, 1973, in the history of this country, and the understandable but lamentable situation that made the American people want to forget about Vietnam, every-

thing associated with it, and in my view led to a series of events which certainly did not lead to the efforts that should have been made to receive a full accounting, especially of those who were missing in action or listed as POW in Laos.

We all know that over 300 Americans were shot down. Only 10 were returned, and those 10, as we know, were those who were captured by the North Vietnamese.

Now, I am not saying that we know the answer as to what happened to those individuals, and I think this set of witnesses, this set of hearings that we have had, indicate clearly that there was a feeling in the United States of America, understandable, but frankly one which I am not particularly proud, that made us want to forget the whole Vietnam scenario and in my view led us to not pursuing information that we may have had concerning particularly the Laos situation.

Finally, I would like to say again that I think these hearings have been helpful. I know that for certain Members of the committee it has not been particularly pleasant, including you, Mr. Chairman, including Mr. Smith, and myself, and Senator Kerrey of Nebraska.

I think we have an obligation to pursue every possible avenue in the course of these hearings to determine as much as possible what happened. I think the American people would expect nothing less of us, and again, I want to congratulate you and Senator Smith and our staff who have conducted, I think, these hearings in an unbiased, fair, and objective fashion.

Thank you, Mr. Chairman.

Chairman KERRY. Thank you, Senator McCain, very much. I personally thank you for the comments.

Senator Kerrey.

STATEMENT OF HON. ROBERT KERREY, U.S. SENATOR FROM NEBRASKA

Senator KERREY. Thank you, Mr. Chairman.

One of the things that I would like to say in my opening statement is that on Tuesday, when former Secretary of State Kissinger was here, he said that no prisoners were left behind, using his language, quote, by deliberate act or negligent omission, end of quote.

In my opening statement to Mr. Kissinger at the time, I said I did not believe that was the standard of proof that this committee was intending to operate under, that it was not the intent of this committee to try and prove negligence, or to try to prove that there was some deliberate act. In fact, I have rarely heard it asserted that there was negligence or some deliberate act.

However, it is clear that this committee is operating because there was not a full accounting, in particular of missing in action, and 20 years later we still do not have that full accounting. General Vessey is working on it, and this committee has been put together because that full accounting has never been achieved 20 years later.

I intend to assert—and perhaps it is going to be better. We may do some of our better work after the election than prior, because things get very politicized and difficult prior to an election, but I

intend to argue and assert that one of the things this committee needs to continue to do is work toward increased openness and release of documents being held in the executive branch.

Part of the reason that we are having to do this work here today is that the documents are still classified and only we can see them, and there are great disputes. I understand that both the chairman and the vice chairman talked about an Evans and Novak piece and talked about where that piece was not correct, not accurate, based upon your reading of the document. I still have not read the document myself, and I trust, and I believe with good reason, your reading of the document.

However, it illustrates part of the problem that we have got, that we should not, unless there is an absolute national security reason, require taxpayer money to be used to have us go over and read documents that in all good conscience ought to be released and available to the American people, so the No. 1 piece of business for me between now and the time this committee ends is to argue for a process whereby we can declassify more and more information.

I would also say, Mr. Chairman, it seems to me in hindsight that it appears it would have been a better procedure for us to have some kind of a list exchanged prior to the signing of this peace treaty, and that particularly in Laos, accepting an offer by the North Vietnamese to do all they could was hardly an iron-clad guarantee, and made it difficult for us to truly get an accounting for our missing.

I would also—my own view of the events of 1972 and 1973 are certainly clouded by my own emotional involvement, but trying to separate the emotion from the facts, it seems to me that one of the things that should be said at the outset for the record is that I do have some disagreement with Secretary Kissinger's representation of what happened in 1973.

It seems to me the facts are relatively clear that in 1968 President Johnson made a decision not to run for reelection not because Congress was telling him not to do it, but because the American people had grown very dissatisfied of the war in Vietnam. It was not clear that they wanted the American troops home, but they were just unhappy with it. There was a great deal of discontent.

It can be argued, I think fairly, that Lyndon Johnson may have won reelection and may not have chosen to move to the sidelines, so it seems to me that the Nixon administration came to office in 1969 with a mandate to either end the war or at least change the circumstances of the war in some fashion.

The Nixon administration made the decision—with Secretary Kissinger as the head of the National Security Agency, they made the decision to pursue two tracks. Track No. 1 was to withdraw American troops and Vietnamize the war effort. They made that decision. Track No. 2 was to begin secret negotiations in August 1969 in addition to the public meetings that were going on with the North Vietnamese.

Regrettably, again with hindsight, it must be observed that Vietnamization did not, at least in terms of giving us strength at the negotiating table, produce in the latter part of 1972 the capacity for American to negotiate with North Vietnam from a position of strength.

Thus, we had to accept an assurance from the Democratic Republic of Vietnam that they would do all that they could with their ally, and one of the things I would like to hear from Ambassador Godley is in fact how much control the North Vietnamese had over the Pathet Lao. It seems to me it was considerable. We had to accept an assurance that really was worthless.

So it seems to me, Mr. Chairman, that both the effort to declassify information so the public themselves can fully examine the documents and the effort to examine the specific problems that we have accounting for missing in action in Laos come as a consequence of the special circumstances under which that treaty was signed.

I say, as I did in my comments—opening comments to Secretary Kissinger as well, that it is very important for us to try to figure out what we are going to do today, not what we should have done 20 years ago.

If the examination of what we did 20 years ago serves the purpose of helping us to get a full accounting for missing today, get an accounting and identification of the possibility that perhaps there are still men alive in Vietnam or Laos or Cambodia, if it serves the purpose of improving relations, as well, between the United States and Vietnam, then it seems to me that the examination of what went on 20 years ago is useful.

If it does not serve any of those purposes, it seems to me that we will be distracted and we will be led down a path that might produce some interesting arguments but will produce nothing terribly beneficial.

I simply close by saying what I have said on a number of occasions both privately and publicly. This committee could very easily itself have moved in a direction where it accomplished nothing. I believe if we ended today, which some would argue we should—if we ended today, this committee will already have accomplished a great deal.

Mr. Chairman, I have undying admiration and appreciation both for you and for Vice Chairman Smith for pursuing this, and I want to pay special tribute to, again, Senator Grassley, whose interest in declassification was early, was active, was strong, and I think has provided enormous benefit to the American people.

Chairman KERRY. Thank you very much, Senator Kerrey.

Gentlemen, if you would rise so I could swear you, I would appreciate it. If you would raise your right hand:

Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Admiral MOORER. I do.

Ambassador GODLEY. I do.

Chairman KERRY. Admiral, Mr. Ambassador, we welcome you here. You have, each of you, given us good time in depositions.

Admiral in your case, you have testified previously. I said previously, Admiral, and I say it again, you are one of our great naval figures, somebody that I held in great awe as a junior officer, and I continue to have enormous respect for. We are delighted to have you here today.

Ambassador Godley, a distinguished diplomat, a Foreign Service career, you had a habit of showing up in all the trouble spots some-

how—I do not know—but it gives you a remarkable experience to share with us, and particularly your stewardship in Laos during the troubled period that is of concern to the committee, so we are delighted to have you here, and thank you for taking the time.

We would welcome an opening statement from each of you if you have one, and then we will proceed to the questions.
Yes, Admiral.

**TESTIMONY OF ADMIRAL THOMAS MOORER (USN, RET.),
CHAIRMAN, JOINT CHIEFS OF STAFF 1970-1974**

Admiral MOORER. Mr. Chairman and Members of the committee, in view of the comments that have been made by the Members of the committee this morning, I would like to alter my written statement somewhat and try to assist in the answers to some of the questions you have raised in a general sense.

The first thing I want to talk about is the command authority. Now, you have been handling messages by the hundreds, and I want to tell you two things: (1) that when I was chairman of the Joint Chiefs of Staff, not one message that involved movement of troops or aircraft attacks or anything of a military nature was originated by me.

In every case, I had it initialed by the Secretary of Defense, or in many cases I had direct telephone calls from the President, or he would call the Secretary of Defense, who in turn would call me, and consequently, when you read that I sent this message and that message, it is quite true that I sent the message, but I did not originate the message.

In other words, I had authority to send the message, and you see messages that said from Moorer to so-and-so and so-and-so, and that is because when we have a very sensitive message, that puts it in a different category of security.

Chairman KERRY. Admiral, if I could just interrupt you for a minute—I apologize. I just wanted to acknowledge that Senator Leahy is here. I do not know, Senator, if you want to sit up here. You are entitled to, if you do.

Senator LEAHY. That is fine—no.

Chairman KERRY. Thank you.

Admiral MOORER. I do not think people really recognize that, that the Joint Chiefs of Staff issue all messages because they are the ones that know how to address the message, how many information addressees are there, who needs to know the information, and so on, but it comes out of the concept we have of civilian control.

That brings me to the Evans and Novak article, which makes me very unhappy, because what it says is that I sent one message and then I was forced to cancel it. Then there's a comment to the effect that only the President could have forced Tom to do that. Well, this is an outright misrepresentation of the facts.

The decisions to send the message, the decision to cancel the message, were all generated by an overall management of the plan we had to coordinate the withdrawal of the few troops we had left with the withdrawal of the prisoners we had left. As to this article, which I think is typical of the kinds of articles that tore our coun-

try apart by discrediting anybody in authority, or attempting to, but I can only say that this business of an unidentified source, or a source well-informed who asks not to be identified—and this article goes on to say that the fact that I had cancelled a message "makes me sick."

Well, that makes two of us. It makes me sick, too, and I hope that the committee will give no credit to that article, because it's completely misleading. It's just, I think, downgrading people.

And then what they said about Ambassador Godley, that he would get orders from Washington to send a certain kind of message back to the same people that ordered him to send a message, is ridiculous.

I have been around Ambassadors and foreign officers for years and years, and never have I even suspected or heard anybody that suspected that an Ambassador would do something like that, so that was very unfair to Ambassador Godley, who is one of our best Ambassadors and a man who has really performed well for the country. That made him look like he was just a patsy.

As I say, if it made somebody sick, it made me sick, so that's two of us sick.

Next thing I want to say to you is that when I was told that I was going to be chairman of the Joint Chiefs of Staff, it was in 1970, I went in to see my predecessor, General Wheeler. He was sitting at his desk like this, with his face in his hands, and he looked up and saw me, having just heard himself that I was going to be his relief, and he said: "you will never survive," and I asked him what he meant by that, and he said that the way things are going, the public support of the war, the way the war is being fought, he said, all of that is going to accumulate sometime in the future, and you are going to get accused of fouling the whole thing up. He was not far from being a good predictor.

I would go on in response to Senator Kerrey to say that the Johnson-McNamara guidelines were three: we were not to overthrow Ho Chi Minh, we will not invade North Vietnam, and we seek no wider war, and what happened in following that guidance?

There was a 10-mile circle around Hanoi, a 5-mile circle around Haiphong, we didn't go into Cambodia and wipe out the sanctuary they had where they were just accumulating supplies and running across and killing Americans and running back and having a cigarette. We let the Chinese trawlers come right through the American fleet and go in and give supplies to the Viet Cong. We could have blown them out of the water in 3 minutes.

And on top of that, we had the North Vietnamese getting 95 percent of their supplies by ship, some of which, I might say, were allied ships, British and Japanese, and 95 percent of their supplies for 8 years, and they continued to do that until we mined Haiphong Harbor. We finally got permission to do it.

Senator McCain's father was Commander in Chief, Pacific. He recommended over and over again that we mine Haiphong Harbor. What we really did, to show you what a simple thing this was, is that we were flying 1,000 sorties a day. We took 26 airplanes, they were gone an hour and a half, and after they dropped those mines—no one got killed, no one got hurt, and after we dropped

the mines. Not a single ship entered or left that harbor until we took the mines up 2 years later.

Now, as time went on and we were trying to negotiate with the North Vietnamese, Dr. Kissinger was, Secretary Kissinger was, I went to a NATO meeting—there was a lot of things going on around me besides Vietnam—and on my way back I get a message from the President saying he wants to see me at Camp David. And I walk in the room and there is the President and Secretary Rusk, the Deputy Secretary of Defense. The President asked what are we going to do about the POWs, and I said I can get them back. And he says what do you mean. I said these people are nothing but professional revolutionaries. They only understand one thing, which is brute strength. And I said we give them a taste of that, and they'll turn the POWs loose.

Well, that's exactly what happened. We commenced the bombing on December 18. It continued for about 8 or so days, and then they signaled that they were ready to talk and we began to make the agreement that resulted in the release the latter part of March.

I think it is useful to know these things, because if you read the press in those days and the things they said about President Nixon, that he was Attila the Hun, that he was Genghis Khan, that he was doing target bombing, that we destroyed hospitals, that we were killing our own POWs, and this went on and on.

Now it happened that when the Congress came back after Christmas holidays, I was the only one in town so I was the only witness for the three committees: the Armed Services Committee, the Appropriations Committee, and the Foreign Relations Committee. And not one Senator and only one Congressman went outside and had a press conference and supported what we did.

I'm just mentioning that to point out the mood of the country at that time, which had been going on for a long time and getting worse and worse. The country was in a state of near anarchy, pouring blood on the Pentagon steps, lying down in Constitution Avenue so that all work would stop, people couldn't travel in the city, and things like that.

I don't want to have to live through that again, I can tell you. And I keep remembering what General Wheeler told me. Well I did survive, but nevertheless that's where we were.

So when we get to all of the debate now about POWs and missing in action and so on, here was my position. We had a certain number identified. We had a plan, which was timing the withdrawal of the only 5,000 men left with the fly out of the POWs. But when we got to the business of the POWs in Laos, which I think were seven Americans and two other—three civilians, the North Vietnamese once again stuck their feet in the mud.

What happened was that we had to make a separate arrangement with the North Vietnamese, because they said the Lao are not party to the agreement. Therefore, that being the case, we're not going to deal with them.

Chairman KERRY. Admiral, I need, unfortunately, to interrupt you here, and I apologize for it. We have a vote on. We are in the very back end of the vote, so we need to go over and vote and then come back. Then, obviously, we would like to address some questions to you about the Laos prisoner knowledge.

So we will recess just for the few minutes it takes us to go over and come back and vote.

[Recess.]

Chairman KERRY. The hearing will come to order, please. Admiral, thank you. I apologize for the interruption and we will resume where we were. One thing I might say is—well, we would like to try to focus in on the 1972, 1973 particularly, if we can. But I do not want to cut off any relevant comments that you have.

Admiral MOORER. Well, I made the previous comments in an effort to acquaint the public, if they will listen, of the general environment that occurred during that terrible war. I pray to God I never get mixed up in another situation like that.

I would like to go back just a minute to the bombing. Not only the Christmas bombing, but the other bombing we did around Hanoi and Haiphong. We actually stayed clear of the inside of those circles, and I don't think that any Nation has ever fought a war with 500,000 troops and let the capital of the opposing nation have a sanctuary. I think that tells something about how we were trying to do that thing.

Chairman KERRY. I might just add, Admiral, that you will have no argument from any of the Vietnam veterans on this panel. I enlisted in 1965, was commissioned in 1966, went over in 1968 twice, came back in 1969, and volunteered, volunteered to go over, volunteered to go down to the southern part where we were fighting in the Navy, and went over to win.

Some people ask why I changed or came back, and I must tell you that I was not prescient or anything, because now we can read people like Neil Sheehan and others and it was clear in 1963 and 1964 to some people where we were going. But I came back in 1969 convinced that what was going to happen in 1975 was going to happen.

The notion of trying to fight a war with these crazy restrictions that we were trying to fight it with just convinced me that you cannot fight a war that way. So I share with you that sense of—and I think every person who was over there shares that sense of frustration.

To our benefit, that lesson appeared to have been learned. Because when President Bush approached Desert Storm, it was very clear there was a unanimous feeling in this country, and particularly among those who had learned that lesson, that if we were going to get involved in anything we were all going to support it and we were all going to go in to win, and we did. And I think it is a reflection of that.

Admiral MOORER. Thank you very much, and I'm happy to hear you say that.

I would get right down, now, to the time when the POWs were released. We had, as you know, sir, the Joint Military Committee. There were four representatives on that: North Vietnam, South Vietnam, the Vietcong, and the United States. Our representative was General Woodward.

And as I think I said before, the North Vietnamese would not—General Hoa would not talk about POWs in Laos because Laos didn't sign the agreements. So we had to kind of make a separate bilateral arrangement with him to bring in those that were in

Laos. That meant that we had in custody and ready to fly out those that were in North and South Vietnam.

And the question arises now whether you would be willing to detain those boys that thought they were coming home while we went through another long discussion and negotiation with North Vietnam. So my position was let's get those we have home and continue to press to find out whether there are any more.

Now you said two or three times when Secretary Kissinger was here that we should move heaven and earth. Well I would add to that hell. And the problem was that after the act that made attack of Laos, Cambodia—in Laos, Cambodia, North and South Vietnam illegal, was what it did—we were short on hell. We didn't have anything like the pressure we could put on them to get the prisoners back.

But I think that for all practical purposes we really lost the war, particularly from a political point of view, because we couldn't get in an airplane and go to each point of contact where we thought there might be a POW confined and held against his will. And it's not unlike the situation we have over in Iraq where we had to get a special team to go look at each place we thought that Hussein had nuclear capability. In other words, to find out whether or not this kind of information is true or false, you have to have a man go to the point and take a look.

Chairman KERRY. Could I just interrupt you there and ask questions so we do not lose this, because it is important, I think. Did we know a place?

Admiral MOORER. No, sir.

Chairman KERRY. Did we have a point where we thought we could go?

Admiral MOORER. Well that's the whole point I'm trying to make. If we had have known a place—now the question also arises, and I'll finish now, that some people think it was highly probable that when prisoners were captured in Laos, then they were turned over to the North Vietnamese. There is no doubt that the Pathet Lao was under the grip of the North Vietnamese army. I think that's pretty well demonstrated on several occasions.

So we wound up with the prisoners we had coming home, taking the troops out, disestablishing the U.S. MACV, and the way I look at it we permitted a little nation with 17 million people, which is less than one finds in two counties in the United States, namely Los Angeles and Orange Counties, to tear us apart for 8 years. And not 8 years, but now here 20 years later we are still struggling with that.

Thank you, Mr. Chairman.

[The prepared statement of Admiral Moorer follows:]

PREPARED STATEMENT OF THOMAS H. MOORER

Mr. Chairman, Members of the committee: Attached to this statement you will find my response to the questions sent to me by the chairman in his letter of September 14, 1992.

As requested by the chairman, I am now prepared to make an oral statement which I hope will be helpful in better understanding some parts of the frustrating issue which has occupied your time for several weeks. I will first describe the Chain of Command which transmits the instructions down to the operating forces, and then I think it would be helpful to look back and review quickly the general nature

of the Vietnam War which has been the cause of so much disruption and heart-break. Many of my most productive years were spent on this war. I was in command of the 7th Fleet in the Western Pacific when President Kennedy sent personnel to Okinawa to train as the training Cadres for South Vietnam. I was Commander of the Pacific Fleet when the Tonkin Gulf incident occurred. I spent 2 years as Commander of the Atlantic Fleet training ships and aircraft for the Vietnam War. In 1967 I became Chief of Naval Operations and a member of the Joint Chiefs of Staff. I became chairman in 1970 where I served for 4 years and saw the war stop but not end.

Mr. Chairman, with your permission, I would like to briefly comment on the Chain of Command the series of events that brought us to the Vietnam Agreement that stopped the war.

September 21, 1992: Reply to questions to Admiral Thomas H. Moorer presented by the chairman, Senate Select Committee on POW/MIA Affairs.

1. POW EXPECTATIONS

a. During the course of the Vietnam War there were many sources which were continuously recorded, analyzed, and/or corrected. Sources included battle field reports, pilot reports following shoot down of aircraft, rescue team reports, intelligence reports from comint as well as foreign sources, information from POWs already in captivity or released by North Vietnamese.

b. Information concerning Americans taken captive in Laos was obtained primarily from the U.S. Embassy in Vientiane, pilots observing shoot down of friendly aircraft, special intelligence, and the 200 members of the CIA operating in Laos.

c. I can't speak for U.S. negotiators since I was not a negotiator. However, I viewed any and every statement and promise made by the North Vietnamese with extreme skepticism. Their record did not permit any other approach.

d. I do not recall any discussions with the Pathet Lao leading up to Paris talks, although they may have taken place. The Pathet Lao was not included in the Paris Peace talks and signed no papers. The 20 pages of the Paris Peace Agreement only contains the word Laos in reference to the Geneva Accords of 1962 and stipulates that the parties signing the Paris Agreement will refrain from conducting military operations in Laos and Cambodia.

I followed the release of POWs and the withdrawal of U.S. forces very closely. As I recall the North Vietnamese toward the end of March proposed to release all prisoners held in Hanoi and the PRG but the proposal contained no mention of U.S. personnel held in Laos. I advised the C-in-C Pacific, that the United States reply to the North Vietnamese proposal was that the United States will complete the withdrawal of United States forces when two conditions were met (1) United States receipt of a "complete list" of all U.S. POWs, including those held in Laos. (2) The actual transfer of the first contingent of POWs to U.S. custody of the last group of prisoners. The Four Party Joint Military Commission was presented this position. The North Vietnamese rejected this position claiming that Laos was not a part of the Vietnamese Agreement. A complete impasse existed for the next several days. The North Vietnamese refused additional information on the POW release and even demanded that the Marine Guard at the U.S. Embassy in Saigon be included in the troop withdrawals and on March 25, 1973 the White House Press Secretary released a Presidential statement that U.S. forces would remain in South Vietnam until all POWs were released.

The next day Major General Woodward, U.S. representative to the FPJM met with his counterpart in NVM, Major General Hoa, and presented him with the U.S. position as stated by the President. Hoa stated that while the agreement did not include Laos he would see what he could do. At the next meeting with General Woodward, General Hoa announced that the Pathet Lao had agreed to release the U.S. prisoners but they did not want to appear to be part of the Vietnam agreement. General Hoa stated that NVM & PRG would free remaining prisoners on the next three days and he would return to Hanoi on March 29. General Woodward agreed that all remaining U.S. military personnel would be redeployed from SVN upon the resumption of POW release. The release of the POWs proceeded as follows:

March 27 PRG freed last increment of U.S. prisoners in its custody 27 military and 5 civilian.

March 28 Pathet Lao released seven U.S. military, two civilians and one Canadian.

March 28 and 29 NVN released 40 and 67 U.S. military prisoners. During the same period Peoples Republic of China released two military and one civilian. With the departure of the last military personnel from the U.S. MACV was dis-

established. The President's Press Secretary announced for the President that all our POWs were home.

2. CONTACTS WITH THE PATHET LAO

a. See paragraph 1.d. above.

3. POST-HOMECOMING

a. I processed and transmitted all messages to Commander-in-Chief Pacific, Com USMACV, and Major General Woodward as well as spent much time on the telephone with all of these Commands. President Nixon's statement on March 29, 1973 was absolutely true as viewed within the context that it was made. He was referring to the group I listed as page 2, paragraph d. He was not stating that there are no prisoners hidden away in North Vietnam or Laos or we would not continue to search for them with such leverage that we had. I was not aware of the statement reportedly made by Roger Shields and do not recall any discussion while I was on active duty.

4. SUBJECTIVE VIEW

a. I do not know too much about the French experience but I am confident they ran into the same delays, surprises, and frustrations that U.S. negotiators experienced. Like the North Koreans on the DMZ in Korea these people do not know what the word honesty means. They continually practice deception and are often thrown off balance when they are told the simple truth. The simple facts are that they respond to nothing but brute strength. That is what we used during the Christmas bombing and for the first time in an 8 year frustrating war they got the message. After 8 years of combat to no avail it took them only a few days of heavy attack to agree to release our POWs. The U.S. negotiators for the United States were under constant pressure to do just that—negotiate. Unfortunately, they had just about as much pressure at home that they encountered from the North Vietnamese.

The U.S. negotiators had to weigh each move on the questions as to how would the Congress react, what would the media say and how about our Allies. All the North Vietnamese negotiators had to do was lay back generate opposition in the Western world.

Since we did not invade either NVN or Laos, the U.S. sources could not physically inspect every spot which was reported to contain one or more POW. Furthermore, we were fighting in a three canopy jungle which was difficult to penetrate and not subject to effective photographic reconnaissance. Consequently, in view of the terrain and the rules of engagement under which we operated I can't see how we could have improved our information the number, identity and location of our POWs.

b. I know that there are some families of the MIAs who feel that the U.S. Government has not done enough to locate POWs that are reported to be alive, and that there could even be a conspiracy to hold these men in captivity. I share their grief and would probably behave the same if I had a close relative I believed was still alive. However, to enforce a "demand" one must be prepared to use force. This fact was recently confirmed in Iraq. And to determine the existence of a nuclear weapon or a prisoner one must position people on the ground to take a look. At the end of the Vietnam War we had no leverage. The Congress had tied our military hands and the people at large did not have the stomach to reopen the war. I think we did everything possible under the circumstances. For instance, General Vessey, former Chairman, Joint Chief of Staff, and now serving as POW representative for President Reagan and Bush has been to Vietnam several times. It is ludicrous to suggest that he is aware of the location of confined POWs but will not tell anyone.

c. On balance, at least based on my experience, I believe that the U.S. Government has been open and frank with the American people on the MIA/POW issue. I do not know of a single case where the Government has published false information or been deceptive. In combat a man can be missing, he can be dead, or he can be lost and in extreme cases he can even desert. The Government cannot be guilty of false information. When in doubt, the Government will stick to the safe side until the facts are clearly revealed.

Chairman KERRY. Thank you very much, Admiral, we appreciate it. Mr. Ambassador.

TESTIMONY OF HON. G. McMURTIE GODLEY, U.S. AMBASSADOR TO LAOS, 1969-1973

Ambassador Godley. Mr. Chairman, I have no written statement. I would like, however, to submit a few remarks commenting upon the areas of interest that you cited.

During my ambassadorship there were no regular non-American sources we could use concerning POWs and MIAs in Laos.

Chairman KERRY. Mr. Ambassador, sir. Just for the record so people know—No. 1, if you could pull the mike a little bit closer—just would you say the years that you were serving as Ambassador in Laos.

Ambassador GODLEY. From 1969 to 1973. I left in April 1973.

Chairman KERRY. Thank you. So you were there through the entire period of the so-called secret war, and particularly at the time that the lists and the exchange took place.

Ambassador Godley. The secret war started before I got there, but I was briefed on it and took control of it.

Chairman KERRY. Thank you, sir.

Ambassador GODLEY. The only reliable sources we had about MIAs or POWs were, of course, Air Force reports as to losses over Laos and Air America, which lost several men in Northern Laos. An American Jesuit priest speaking both Lao and Vietnamese accompanied Ross Perot on his two visits to South Phetrasy. He also accompanied nearly all the American dependents of MIAs when they made similar visits. He kept us informed as to the tenor of these meetings.

The information regarding the nine Americans and one Canadian captured in Laos was, I assume, from the Pathet Lao or North Vietnamese sources. The reaction of top American officials in Laos to the prisoner list submitted by the North Vietnamese was cynicism and concern. We had witnessed too many lies by Communists and Vietnamese, starting with the Yalta agreements, Pammunjon, et cetera. The Communists would agree to a good agreement, then inevitably refuse to carry it out.

Under instructions from the Department of State, we did what we could vis-a-vis the Pathet Lao to obtain information concerning Americans captured or deceased in Laos. The discussions with the Pathet Lao representatives in Vientiane were fruitless and inconclusive. My deputy, John Deane, accompanied by Consul Rand, saw South Phetrasy several times in March 1973 and go nowhere in obtaining information about POWs or MIAs.

I was not consulted as to the process leading to President Nixon's or Secretary Shield's statements. We were concerned, but there were no Americans held by the Pathet Lao, and were convinced that all Americans who fell into enemy hands in Laos were under North Vietnamese control.

Just today I have been reminded by Mr. Derson that we had, in Vietnam, a special team interrogating many Pathet Lao and North Vietnamese prisoners about American prisoners or MIAs. The information we gathered was not, however, hard proof, but you might say collateral information.

As I recall, the general view of Americans in Laos in 1972, 1973, was that we had lost the military conflict in Indochina and we

were talking out of jail with the North Vietnamese. Therefore, we had to accept anything we could obtain from them. We were, to put it mildly, bitter.

The Symington Amendment was the final blow. That amendment, as I recall it, limited the dollar value of our military expenses in Laos to \$300 million a year. This was to cover ammunition, aircraft sorties, bombs, food, and to pay indigenous personnel. But I don't believe that in the history of warfare there has ever been a military commander operating under such budgetary restrictions.

We were beaten, not by the men in the field, but by public opinion at home, and were negotiating from a position of abject weakness with men who knew what was going on in the United States in some cases better than I did, and what was going on here was obviously a basic element of our negotiating position. Any efforts to obtain full account of POW/MIAs were doomed to failure unless the North Vietnamese could see some advantage in acceding to our request.

I am, to put it frankly, disgusted with the way the POW/MIA issue has been handled, both in the media and by disreputable Americans who obtain funds from the families of the MIAs to finance, quote, private search and research operations for MIAs or locating and visiting gravesites in Laos, end quote. My son was in Vientiane in 1988 and he reported that indigenous personnel were peddling to American MIA families dogtags, uniforms, and even bones.

I wish to associate myself with what has been said about the Washington Post handling of this question. Under the headline, "How 350 POWs came to be declared dead," Evans and Novak write a scurrilous article. I responded to that and the Washington Post has not had the decency to print my letter to the editor.

The New York Post, which carried the same article, has quoted precisely what I wrote them. We need, now, to bind the wounds of this tragic situation and not scratch those wounds, as the Washington Post has done. The chairman referred to yesterday's Washington Post article. If I might add another development with which I disagree, I quote: "Defense Secretary Clements states that all POWs who had been in Laos had not been discovered or claimed. Laos let fewer than a dozen POWs out of a total American intelligence agency suspected could be as high as 350."

The Eagleburger report, which is a document which has been quoted several times here, states that DIA said 300, possibly 350 MIAs, or POWs. This is an important distinction. The MIAs were men in aircraft, principally, shot down. They were carried as MIAs until they were either reported as POWs or their graves were located, or a large number of their wing men or other aircraft in the air at that time reported shot or downed in flames.

Chairman KERRY. Mr. Ambassador, your response to Evans and Novak we will make a part of the record here. And without objection, we will put that in.

[The information referred to follows:]

WASHINGTON POST, Oct. 6, 1992

LETTERS TO THE EDITOR

MIAs in Laos

I was distressed by the Sept. 16 Rowland Evans and Robert Novak op-ed column "Left Behind in Laos." It was full of misinformation and unproven allegations, and I should like to set the record straight.

I have testified under oath that it was my opinion (and that of my associates when I was in Laos) that no Americans were held against their will by the Pathet Lao—i.e., the Lao communist forces. Americans who were captured, principally airmen in Northern Laos and the Ho Chi Minh Trail area or Green Berets in southeastern Laos, were transferred by the

North Vietnamese forces in Laos to North Vietnam. The Pathet Lao were puppets, brutally dominated by the North Vietnamese. It was not a military or political force. The military force in Laos was North Vietnamese.

The recollection by a former defense secretary, hiding behind anonymity, was erroneous. The reference to the Defense Intelligence Agency saying there were 350 prisoners of war in Laos is, to put it mildly, misleading.

In March 1973 the Department of Defense indicated that the Defense Intelligence Agency listed approximately

350 U.S. military and civilians as missing or captured in Laos. Tragically, most of these people were missing. Until proven otherwise, a man was considered missing in action. Thus, airmen who did not return from missions over Laos were missing in action until their bodies were recovered, they were proven to have been captured or a large number of their colleagues witnessed their being shot down.

I no longer have access to my telegrams of nearly 20 years ago, but I do not recall ever approaching the chief Pathet Lao emissary in Laos to demand the immediate return of all American prisoners of war. I do not recall visiting the Pathet Lao emissary in March, nor does the Central Intelligence Agency station chief or his deputy.

Finally, it was alleged that on April 6 I sent a cable to Washington under instructions from Washington. I wish to state that in my 36 years in the Foreign Service, Washington never dictated to me the substance of my reports. I might well have said that we had to assume that all Americans missing in action in Laos—not prisoners of war—were dead. Airmen shot down over Laotian territory either died in their crashes, were murdered or were taken prisoner by the North Vietnamese and sent to North Vietnam. There is no evidence that more than a handful remained in Laos.

G. McMURTRIE GODLEY,
Morris, N.Y.
The writer was U.S. ambassador to Laos from 1969 to 1973.

Ambassador GODLEY. Just in concluding, I would like to associate myself with the chairman's remarks earlier on this subject, and also to express my admiration and support for the views submitted by Secretary Kissinger earlier this week. Thank you, Mr. Chairman.

Chairman KERRY. Thank you very much, Mr. Ambassador. I think the distinction you draw is at the center of our inquiry today, and a very important one. The Eagleburger memo refers to 350 MIAs.

Ambassador GODLEY. MIAs or POWs.

Chairman KERRY. Or POWs. But the POW issue is one I know Senator Smith and other members are going to have some very clear questions on, because there are other memoranda suggesting that there were beliefs as to other POWs than the 10 who did return. And therefore that is really, I think, where the intensity of the focus comes into question. But we will come back to that.

Admiral we welcome you, Admiral Murphy. I am glad you are here. If I could ask you to stand so we could swear you in, please. Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God.

Admiral MURPHY. I do.

Chairman KERRY. Thank you. Admiral, do you have an opening statement this morning?

Admiral MURPHY. Yes, I do.

Chairman KERRY. If you could pull the microphone close to you, please.

TESTIMONY OF ADMIRAL DANIEL J. MURPHY, RETIRED USN, DEPUTY DIRECTOR FOR INTELLIGENCE COMMUNITY, CIA, 1977-1980

Admiral MURPHY. Testing, OK. Yes, I do, but I would like to say a word to the vice chairman. I happened to be sitting in the back of the room, Senator Smith, when you lambasted me for, one, not showing up, and requiring that I be subpoenaed. I would like to explain that.

When I was deposed, it was made clear to me that I was not going to be called as a witness. This was last week. I have been—we all have things we have to do in life. I filled out the whole week, and then I suddenly get a letter saying show up. And I really had doubts in my mind whether you and Senator Kerry seriously wanted me to come to this hearing, after you had read the deposition.

So then I said, well, to clarify that please subpoena me and I'll be there. There was no doubt I was going to show up one way or the other, with or without a subpoena. I've testified before committees of Congress for years, and there's never been any doubt that I would do my duty as far as my responsibilities to the Congress is concerned.

Vice Chairman SMITH. Well I might just respond, Admiral, with all due respect, I do not believe I lambasted you. I just said that you were not here. I did not know you were in the back of the room; you did not identify yourself. And according to counsel, you were told 45 minutes after the deposition, at that time, that we ex-

pected you to be here as a witness. And you insisted on a subpoena, which we issued.

Admiral MURPHY. Well I doubt it was within—within what, sir? You say 45?

Vice Chairman SMITH. It is 45 to 90 minutes, counsel tells me, after the deposition was completed.

Admiral MURPHY. Well I got a letter, but I didn't get anything orally that I was going to be a witness.

Vice Chairman SMITH. Well you are here.

Admiral MURPHY. At any rate, Senator, it has been very confusing. I come into the back of the room. There is nobody there to say—I didn't even know I was on a panel this morning. So, in a way, you can understand why I would be concerned that—you know, I'm usually pretty prompt. That's one thing you get taught, as you know, in the military.

Well, sir, my statement is short. Background, I served in the U.S. Navy from 1942 to 1977. I served in the Department of Defense from 1969 to 1973 in one period, another period from 1977 to 1979. I was chief of staff to President Bush during his first term as Vice President.

I have not had responsibility for POW or MIA issues in any of those jobs. Now my service as a military assistant to the Secretary of Defense. During my service in the Navy I held the position of military assistant to Mel Laird and Elliot Richardson. In that position I served Secretary Laird. As I just said, I did not work for the Deputy Secretary of Defense Clements. There were other military assistants who served the deputy secretary.

During my tenure as military assistant to the Secretary of Defense, the subject of POW and MIA affairs was dealt with by the secretary himself or Roger Shields on his staff, and naturally with the Joint Chiefs. I would have, on occasion, handled papers on that subject that came into the office of the secretary, and I would have directed the secretary's instructions or his decisions back to the people who had substantive responsibilities for these matters.

The secretary, or the secretary's representatives, would have attended meetings with other agencies on this subject, usually within the National Security Council structure. I would have, on occasion, attended those meetings to provide backup support. I have no present recollection of any decision made by the secretary with respect to specific POW/MIA matters or any documents reflecting information about these matters or any administrative action I might have taken with respect to any of these matters.

What are the military assistant's responsibilities? The Secretary of Defense had two military assistants. Each military assistant might handle 40 or 50 major items a week. At that time, the military assistants did not have substantive responsibilities for particular subject matters. At times a military assistant might have special knowledge because of prior experience in some part of the world or with a particular type of weapons system, and in that case we would use that knowledge in getting our work done.

The responsibilities of the military assistant included ensuring that the paperwork in the secretary's immediate office flowed efficiently, accompanying the secretary on trips to ensure that the arrangements for the use of the secretary's time were carried out ef-

ficiently, attending meetings with the secretary and other senior officials who were acting for the secretary, to provide backup support.

Backup support usually means getting the necessary briefing papers from the offices or the military departments involved in the substantive subjects to be discussed. Delivering those briefing papers to the secretary, the military assistants would ensure that any information the secretary requested was provided by the those in the Department of Defense who had collected or generated that information. The military assistants did not, themselves, generate or collect data.

Now when the secretary or the secretary's representative attended meetings within the National Security Council structure and I provided backup support, I would not present any DOD position or make any statement on behalf of DOD unless specifically invited by the secretary or the other DOD representative present.

I attended meetings with the secretary's representative during the years 1972 and 1973 when policies and actions with respect to Vietnam were discussed. At those meetings subjects with respect to POW/MIA affairs were discussed by the principals. I have no present recollection of my participation in any such discussion. Indeed, I have no present recollection of any discussion along this line at all.

I have examined declassified portions of two documents that are minutes of such meetings. The first document says it is the minutes of a meeting on November 8, 1972. I have no present recollection of anything described in the declassified portion of this memo with respect to the POW and the MIA situation. I assume that anything in the portion of this memo that remains classified, I cannot discuss in public.

I have no present recollection of being at this meeting or of making any comments on POW/MIA subjects at the meeting. The responsibilities for these matters, as far as the Secretary of Defense's immediate office, was Roger Shields. He would have handled the backup for the representative of the secretary at the meeting.

Dr. Kissinger is reported to have requested two short memos from DOD on requirements with respect to POWs and MIAs. I may have handled these papers, Mr. Chairman, on their way to the department—from the Department of Defense to Dr. Kissinger. But I have no present recollection of having handled that paper. In any case, I would not have made any substantive contribution to those papers.

January 29, 1973, there was a second document. I have no present recollection of anything in the declassified portion of this document either. I have no present recollection of being at the meeting. This document reports numbers of POWs, including only six known POWs in Laos. It says that we hope there are a lot more than six.

When I read this document during the deposition, it seemed to me that the information being reported at the meeting probably was being read from some document. I had no responsibility for the collection or evaluation of information about POWs in Laos or Vietnam. That was the responsibility of the Chairman of the Joint

Chiefs, working through the DIA. I believe I had no role in the discussion that is reported in this document.

If I had been asked, in connection with my responsibility, to provide backup support at such a meeting, to obtain information for use at a meeting such as this, I would have gone to one of the DOD sources to get a report. I cannot say which source I might have gone to. It could have been a report from DIA, it could have been a report from a military department, or it could have been a report prepared by the Joint Chiefs.

I would not have written any report, and I would not have generated any numbers. I might have obtained a document or report of some kind from another source within the Defense Department, I just can't remember it.

Now during the time that I was Chief of Staff to the Vice President, I have no present recollection of any involvement with POW/MIA affairs when I worked in the Vice President's office. And when asked that in the deposition, I gave a lot of time—I thought very carefully. But to the best of my recollection, I don't recall the subject being addressed.

Now, Mr. Chairman, in my personal view there were no confirmed reports of live U.S. military personnel left behind in Vietnam or Laos. I do not recall seeing any such reports, and I would have been very very upset, as you would be, if you had to read such a report in that position.

That's all I have to say this morning, Senator.

[The prepared statement of Admiral Murphy follows:]

PREPARED STATEMENT OF DANIEL J. MURPHY, USN-RET

BACKGROUND

I served in the United States Navy from 1942 to 1977; I served at the Department of Defense from 1969 to 1973; and I served as Chief of Staff for President Bush during his term as Vice President. I have not had responsibility for POW/MIA matters in any of these positions.

SERVICE AS MILITARY ASSISTANT TO THE SECRETARY OF DEFENSE

During my service in the Navy, I held the position of military assistant to the Secretary of Defense. In that position, I served Secretary Laird and Secretary Richardson. I did not work for the Deputy Secretary of Defense. There were other military assistants who served the Deputy Secretary.

CONTACT WITH POW/MIA MATTERS

During my tenure as military assistant to the Secretary of Defense, the subject of POW/MIA affairs was dealt with by the Secretary. I would have, on occasion, handled papers on that subject that came into the office to the Secretary, and I would have directed the Secretary's instructions or decisions back to the people who had substantive responsibilities for these matters. The Secretary or the Secretary's representatives would have attended meetings with other agencies on this subject, usually within the National Security Council structure. I would have, on occasion, attended those meetings to provide backup support. I have no present recollection of any decision made by the Secretary with respect to specific POW/MIA matters, or any documents reflecting information about these matters, or any administrative action might have taken with respect to any such matter.

MILITARY ASSISTANT RESPONSIBILITIES

The Secretary of Defense had two military assistants. Each military assistant might handle 40 or 50 matters each week. At that time, the military assistants did not have substantive responsibilities for a particular subject matter areas. At times,

a military assistant might have special knowledge because of prior service in a particular part of the world or with a particular type of equipment, and we would make use of that knowledge in getting our work done.

The responsibilities of the military assistant included ensuring that the paperwork in the Secretary's immediate office flowed efficiently, accompanying the Secretary on trips to ensure that the arrangements for the use of the Secretary's time were carried out efficiently, attending meetings with the Secretary and other senior officials who were acting for the Secretary to provide backup support. Backup support usually means getting the necessary briefing papers from the offices or military departments involved in the substantive subjects to be discussed and delivering those briefing papers to the Secretary. The military assistants would ensure that any information the Secretary requested was provided by those in the Department of Defense who had collected or generated the information. The military assistants did not, themselves, generate or collect the data.

ATTENDANCE AT MEETINGS WITHIN THE NSC STRUCTURE

When the Secretary or the Secretary's representative attended meetings within the National Security Council structure, and I provided backup support, I would not present any DOD position or make any statement on behalf of DOD unless specifically invited or directed by the Secretary or other DOD representative present.

I attended meetings with the Secretary's representative during the years 1972 and 1973 when policies and actions with respect to Vietnam were discussed. At those meetings, subjects with respect to POW/MIA affairs were discussed by the principals. I have no present recollection of my participation in any such discussion. Indeed, I have no present recollection of any such discussion at all.

NSC DOCUMENTS

I have examined declassified portions of two documents that are minutes of such meetings.

NOVEMBER 8, 1972 MINUTES

The first document says it is the minutes of a meeting on November 8, 1972. I have no present recollection of anything described in the declassified portion of this memo with respect to the POW/MIA situation. I assume that anything in the portion of this memo that remains classified should not be discussed in public.

I have no present recollection of being at this meeting or of making any comments on POW/MIA subjects at the meeting. The responsibilities for these matters rested with Roger Shields, as I recall. He would have handled the backup for the representative of the Secretary at this meeting.

Dr. Kissinger is reported to have requested two short memos from DOD on requirements with respect to POWs and MIAs. I may have handled these papers on their way from DOD to Dr. Kissinger if they passed through the Secretary of Defense, but I have no present recollection of doing so. In any case, I would not have made any substantive contribution to these papers.

JANUARY 29, 1973 MEETING

The second document says that it is the minutes of a meeting on January 29, 1973. I have no present recollection of anything in the declassified portion of this document either. I have no present recollection of being at this meeting either.

This document reports numbers of POWs, including only six known POWs in Laos. It says that we hope there are a lot more than six POWs there. When I read this document, it seemed to me that the information being reported at the meeting probably was being read from a document of some kind.

I had no responsibility for the collection or evaluation of information about POWs in Laos or Vietnam. That was the responsibility of the Military Departments, the Joint Chiefs, and the Defense Intelligence Agency. I believe I had no role in the discussion that is reported in this document.

If I had been asked, in connection with my responsibility to provide backup support at such a meeting, to obtain information for use at a meeting such as this, I would have gone to one of the DOD sources to get a report. I cannot say which source I might have gone to. It could have been a report from DIA; it could have been a report from a Military Department; or it could have been a report from the Joint Chiefs. I would not have written any report, and I would not have generated any numbers. I might have obtained a document or report of some kind from another source within the Defense Department.

VICE PRESIDENT'S OFFICE

I have no present recollection of any involvement with POW/MIA affairs when I worked in the Vice President's office.

PERSONAL VIEWS

It is my personal view that there were no confirmed reports of U.S. military personnel left behind in Vietnam or Laos. I do not recall seeing any such reports, and I would have been concerned if there had been any.

Chairman KERRY. Admiral, thank you very much. Before we start the round of questioning let me just quickly make a comment. In many ways the most important panel we have today is the panel that will be last rather than first, because we are going chronologically. And, obviously, Mr. Shields and Mr. Clements have been central to a lot of people's testimony and they will be appearing here later.

But we are trying to establish, before we get to that, what the reality is of the base of discussion about Laos and who might or might not have been a POW. Now as I understand it, and we discussed this a little bit with Secretary Kissinger, Secretary Laird held a press conference in which he took—of 26 people we thought were POW, that we listed as POW—now this is not MIA, this is POW—he had a press conference in which he showed the faces of 14 of these people. None of those 14 came back at this point in time.

Now that is not all Laos. And the reason you are critical to this is to try to establish what the reality base of our thinking was with respect to Laos. But the point that has to keep coming back here, in answer to all of your questions, is that while there is truth to the statement that I could not say where so-and-so was specifically on this day, we did have evidence that individuals had been captured and that individuals were not returning.

And I think that is the centerpiece of the quandary we find ourselves in 20 years later. That those families know that, and now the country knows that. Those families knew that for 20 years.

We also have evidence that there were people within the military, and in the State Department and elsewhere, who believed that. Yourself, Admiral Moorer, you testified previously that you were very unsettled by this. You had grave reservations personally, and personally believed that there were these unanswered questions.

Now I would like to try to focus a little bit on what the knowledge was at that time. Admiral, you attended a WSAG meeting, as they are called, the Washington Special Actions Group, on January 29 at the White House. And as you recall, that meeting took place 2 days after Vietnam released the list of U.S. POWs in Vietnam.

It was 3 days before—this is Admiral Moorer that I am directing this to. It was 3 days before Laos produced its list. Do you have 2 days of the Vietnamese list. You folks meet 3 days before Laos. And the discussion at the meeting focused on an analysis at the highest level of Government of what our expectations were with respect—

Admiral MOORER. What was the date of that, Senator?

Chairman KERRY. January 29, 1973. Can we get a copy?

Admiral MOORER. Can I have a copy of that?

Chairman KERRY. We will get the copy to you. Admiral Murphy has it.

Now, the discussion at the meeting focused on the analysis of that Laos list, and Dr. Kissinger turned to you for your thoughts on the situation in Laos, and you said to him, quote, we are hoping for 40 more on the list of those in Laos. So you had an expectation of some 40 people coming out of Laos. This is before they gave you the list. Would you share with us to the best of your ability in terms of recollection, what was the basis of that expectation of 40 more people coming out of Laos? I would assume, if the Joint Chiefs of Staff Chairman is saying to the National Security Advisor at a White House meeting we expect 40 people out of Laos, that you had a process that had provided you with sufficient reason for making that statement to the National Security Advisor.

Admiral MOORER. Well, I don't recall saying specifically that, and this is the first time I've seen this—these minutes. But this was only based on the fact that there were—we had the number that were shot down, and I assume that I was just trying to estimate and hope that out of that many we could get 20, 30, 40 people.

Chairman KERRY. Well, let me just say, sir, the question was were there any surprises in the list of POWs in North Vietnam? Your response was it was pretty close to what we expected. We are hoping for 40 more on the list of those in Laos. That is your comment.

I am simply trying to establish—I know it was 20 years ago—I am simply trying to establish, Admiral, what the basis of that hope was. I assume, knowing how the JCS works and how the military works that you had been briefed, that DIA and others had presented you with their expectations. And I am confident you were not—you know, you were dealing with a piece of paper or information you had been given. I am simply trying to understand if there is a foundation for that that you remember.

Admiral MOORER. Well, I can only say that if I had a number in writing, it came from DIA. But I don't remember the reasoning back of that at this point.

During the course of this period, the numbers were always shifting back and forth as we found out that a certain individual was dead or a certain individual had been released. There were—the lists we had and the lists that were given by the North Vietnamese didn't exactly match. And I really can't answer your question as to why I had—where I got irrefutable evidence that there were 40 people in Laos.

Chairman KERRY. Now, the second statement is very important in this concept, and I do not want to leave it out because it has to all be taken in its full context, obviously.

Admiral MOORER. I say, pardon me, sir, that says we have only six known prisoners.

Chairman KERRY. Well, that is where I am going to right now.

Admiral MOORER. Although we hope—

Chairman KERRY. That is the second statement.

Admiral MOORER. I said we hope there may be 40 more—I mean

Chairman KERRY. That is what I want to come back to. That is the next statement I am coming to, because apparently that is the statement, Admiral Murphy, that is accredited to you, but you say you did not make that, is that true?

Admiral MURPHY. Well, to the best of my recollection, I didn't. I guess if I could hear a tape I might be able to recognize my voice.

Chairman KERRY. No, no. We are not trying to—there is no trap here. We are simply trying to understand.

Admiral MURPHY. Yes, but Admiral Moorer can help me on this. It is so unlikely that I would jump into the middle of that discussion as a back-bencher and offer that kind of hard numbers, it just is not what we do. And I don't know who said it. My name is beside it, I guess, on the—although I think these names are classified, aren't they?

Chairman KERRY. No, these are declassified.

Now, the reason we are asking, and again, I do not—I am not asserting to you that a transcript is infallible or that somebody taking it could not have heard somebody else speaking and put the wrong name—I acknowledge that. I am simply trying to understand so we can search memories what the basis of this was so we can get to it.

It is a very important statement because it does say we do not know—whoever is speaking is saying the information they have given us about prisoners in North Vietnam is quite accurate. I think this is very important. We do not know what we will get from Laos. We have only six known prisoners in Laos, although we hope there may be 40 or 41. Now, that is a restatement of the earlier statement accredited to you, Admiral Moorer.

It then says we have known very little about the caves where they keep the prisoners in Laos. We just got the first photos of those caves recently, and our impression is that they are pretty big. We think they are holding a lot more than six prisoners there.

Now, the reason, obviously, I am asking this is we have had people making allegations of hundreds of prisoners being held in Laos. We have had, you know, all kinds of things swirling around this issue for years. I think it is very important that in the middle of the release period when you folks had high expectations, when I would think all of the information is on the table, when you were acting in a sense with full anticipation of people coming back, your candid statements only now released for the first time, declassified, indicate not that you thought there were hundreds, but that you had six known prisoners in Laos and that you had a hope of some 40 or 41 more. Now, this begins to shed the reality dose that I have been talking about on this issue.

Can you help us to understand whether that hope gets more definition of any kind?

Admiral MOORER. Well, down below, that paragraph is from the Defense Department, not from me.

Chairman KERRY. It says Defense, and Defense was represented by Admiral Murphy, but Admiral Murphy says he does not recall making the statement and suggests it is unlikely he did.

Admiral MOORER. But the Deputy Secretary of Defense was at all WSAG meetings.

Chairman KERRY. So that might have been Clements?

Admiral MOORER. Could have been, but this is—Defense is not me. I made this statement up here, and he came along—whoever that was came along and repeated what I had said.

Chairman KERRY. Admiral, let me do us all a favor. We are going to get the unredacted version which we hold in back, here. Let me just check it.

The two spokespersons for Defense were Secretary Eagleburger, whom we have deposed and who was unable to be here this week because of the United Nations meetings, but he has made himself available to us and he will come in when we need him if we need him.

Does that refresh your recollection in any way, Admiral?

Admiral MURPHY. No, I already read that during the deposition.

Chairman KERRY. Well, let us try to stay away from the who said what, then, at this point and see is there any recollection that you have now about these 40 or 41 that would help the committee to understand this issue?

Admiral MURPHY. I have no knowledge, Mr. Chairman.

Admiral MOORER. I'm not stonewalling you. I don't recollect anything how that came up, but I mean, the point was that—I want to repeat—that these numbers are changing all the time, and at that particular meeting on one specific date—

Chairman KERRY. Well, I take it, Admiral, you would agree with me that it is certainly not necessarily fair or legitimate to conclude that simply because the caves were big that they held a large number of Americans, is that accurate?

Admiral MOORER. Of course.

Chairman KERRY. Did we have any photographs or evidence that showed that there were Americans in those caves?

Admiral MOORER. I don't recall ever having seen it.

Chairman KERRY. Ambassador Godley, in all the years you were in Laos, with the CIA deeply involved in the war and they were reporting to you, correct? Can you pull the mike close to you, please.

Ambassador GODLEY. Right.

Chairman KERRY. Was there any evidence that showed significant numbers of Americans held in caves?

Ambassador GODLEY. Well, I'd go further than that. To the best of my knowledge, there was never any photographic evidence that those caves were occupied by POWs. We did know that Souvannah Phong, the Pathet Lao leader lived in some of those caves.

Chairman KERRY. That is not exactly accurate, is it? Did we not have intelligence and information with respect to Mr. Shelton, Mr. Hrdlicka, and possibly others, but specifically as to Shelton and Hrdlicka? We knew that they were supposedly held in caves near Sam Neua.

Ambassador GODLEY. That was before my time.

Chairman KERRY. But the last knowledge we had, Mr. Ambassador, was that they were prisoners in the caves.

Ambassador GODLEY. That's possible. I don't know that for a fact. But it's quite possible. How long they were kept in those caves, I don't know.

Chairman KERRY. Well, the record is very clear, and we will put the record in greater detail later. But we did have information that

these prisoners were held in caves near Sam Neua. I am asking you whether we had information that lots of Americans were held, and you have said no.

Ambassador Godley, I am reminded by staff here that regarding the question of Mr. Hrdlicka, in 1973, you directed a U.S. Army interrogation officer to interrogate a wounded Pathet Lao telephone lineman who was captured north of Vientiane. That prisoner located and described a cave complex in Sam Neua that reportedly had contained U.S. POWs at an earlier time. This was the first Pathet Lao prisoner or defector with up-to-date hard information on Sam Neua to arrive in Vientiane since 1971.

He suggested that several U.S. POWs were still at Sam Neua in the late 1960's, more recently than the older reports that existed with respect to Hrdlicka and Shelton. And then the cease-fire in Laos in 1973 apparently effectively precluded any military-associated agent operations into Sam Neua due to the embassy's desire to avoid the possible compromise that such a covert operation would have on the impact of the cease-fire. So we never got in there afterwards to check. Does that refresh your recollection?

Ambassador GODLEY. I'm sorry, it doesn't. And my recollection, as I mentioned the other day when Mr. Perot was testifying, never—my recollection never was that there were 25 to 27 POWs in Sam Neua. It was a fluid situation. We were bombing the fords at Sam Neua. I don't think it was a very—

Chairman KERRY. Well, let me—I am sure Senator Smith or others will come back to that. My time has expired. I just want to ask one last question, Admiral Moorer, if I may, of you. You have raised the issue of these two orders that were issued, and the committee on its face accepts that that is exactly how those orders get issued and that is exactly the way it happened.

The question more relevantly before the committee is that—and it is even more important because it did reflect a White House decision. On March 22, the White House made a decision conveyed through you that we should stop the troop withdrawal, and it should be stopped until the United States has been provided with a complete list of all U.S. POWs, including those held by the Pathet Lao, as well as the time and place of release. Now, that message went out.

The belief in that message was that the United States had prisoners in addition to the nine that were going to be released. And in fact, the acting director of DIA, General Deane, had told you in a memo on March 21 that there were live prisoners in Laos in addition to those nine. Do you recall that?

Admiral MOORER. Well, if you have it documented, I don't recall it but I'm sure he did.

Chairman KERRY. Well, we do have a document of March 21 in which he asserts the live prisoners in addition to the nine. The question that I ask is that 1 day later there was an urgent cable sent, at the direction, as I acknowledge, of the White House and Dr. Kissinger or whoever made the decision, and this cable said that we would complete the troop withdrawal as long as we got the nine, and no longer, as we had been a day earlier, were we conditioning the completion of troop withdrawal on the identification and release of additional prisoners.

Now, you testified at your deposition that the reason for the change was as follows, and I want to question you on this, you were asked: Why did we complete our troop withdrawal without insisting the Pathet Lao give us our prisoners back? Your answer: Well, I have been trying to tell you but you do not listen to what I say.

Question: Well, I want you to say it specifically with regard to this exact question.

Your answer: When this started and the POWs came back and so on, there was a very euphoric reception and the President gave a party on the White House grounds and all the wives of POWs came. And press release after press release were that we were withdrawing the troops at that point. No President could have said whoops, we are not going to withdraw the troops because these people will not agree with us. They are not carrying out their part. At that point in history, we did not have the stomach for doing what you are asking me why we did not do.

Admiral MOORER. That's right.

Chairman KERRY. And that is what you feel happened in that decision?

Admiral MOORER. That's what I just said. You said when you were talking to Dr. Kissinger that we should move heaven and earth and I said we should move heaven and earth and hell, and we didn't have any hell. We didn't have the stomach for it, we didn't have the will, we didn't have the capability. We would have had to go to Laos and go to the caves and go all over the place, and we could start tomorrow and put 500,000 troops back into Indochina, and that's the only way we're going to get the answer to your question, is to go physically on and sweep out the whole area.

Chairman KERRY. OK, so what you are saying is that at this critical moment in March when you got this cable, the kind of balancing decision that Mr. Winston Lord talked to us about the other day was real, that you had to weigh whether or not you could do the hell, as you have said it, is that correct?

Admiral MOORER. Yes, and not only that, we had to think about the people that we were certain of getting out, and to make them sit there another 2 or 3 or 5 months while we continued to pursue the hope, would not have been fair for them.

Chairman KERRY. Now, the reason this came up in a context the other day because in point of fact we did bomb subsequent to the date of this cable. We bombed later because we were upset about the violations, is that correct?

Admiral MOORER. We bombed until—I think it was 3 months more, I believe.

Chairman KERRY. Correct. So we bombed, but this question of, as you say, the whoops, we are not going to withdraw or do something different on the POW issue, even though these grave doubts existed, the POW issue in a sense—POW, I am not talking about MIA—POW issue went aside.

Admiral MOORER. No, I don't agree with that. I mean, if we'd have known the location and identity of POWs we certainly would have done something about it.

Chairman KERRY. I understand. But Admiral, what I am getting at is one day we had an expectation they weren't giving us all our people back. One day later, we no longer had that expectation,

even though we had the same evidence that we had had the day previous. As you yourself said, we simply didn't have the stomach for it. We could not do it.

Now, I'm not—I am just trying to—

Admiral MOORER. It's true, but what is different one day later is return of known Lao POWs.

Chairman KERRY. All right, fine. That tells the story.

Admiral MOORER. We didn't have the stomach for it, I keep saying.

Senator McCAIN. Mr. Chairman, in all due respect, if we do not allow the other members some time—

Chairman KERRY. I am just finished right now. Senator Smith.

Vice Chairman SMITH. Mr. Chairman, we are right in the middle of a vote here, and I would prefer not to—

Chairman KERRY. Why do not you start it?

Vice Chairman SMITH. The problem is that I do not really want to have my questions interrupted.

Admiral MOORER. Senator Kerry, I want to make it clear, when I say we, that we does not include me. If somebody would have just given the go I would have damn well done everything I could. But I'm talking about the people that were rioting at home and pouring blood on the Pentagon steps and lying down.

Chairman KERRY. Admiral, I am totally understanding of that.

Admiral MOORER. I just want to make that distinction.

Chairman KERRY. Yes, sir. I do not argue with that at all, and in fact, you said very clearly in your deposition—and time is difficult here. We do not get to draw it all out in one go-round, but let the record show that you made it very clear in your deposition you disagreed with the decision and you wanted, in fact, a different reaction at that point in time, and I understand that. All I am trying to do is lay on the record the dynamics of what happened.

There are plenty of reasons why, and I have tried to be very honest and open about all of those reasons, including all the people in the country who did not want the war to continue. I understand that. There are reasons that the country got there, and we ought to lay those out, too.

Vice Chairman SMITH. It would be my preference to take a 5-minute recess and go vote.

Chairman KERRY. We will recess and come back and pick up the questions. There is a vote on, so we need to go vote and come back.

[Recess.]

Chairman KERRY. The hearing will come back to order. Is Senator Bob Kerrey here? There he is. Senator Smith has graciously tried to accommodate some time problems Senator Kerrey has. He has to preside at noon, so we will turn to Senator Kerrey. Then we will come back to the order with Senator Smith.

Senator KERREY. Thank you very much, Mr. Chairman. Ambassador Godley, I would like to ask just a few questions about Laos in the early 1970's. You probably do not need to have your memory refreshed on this one, but the cease-fire occurred on the February 21, 1973, in Laos. And what I am trying to ascertain is your assessment of the possibility of a free Laos, let us say, in 1971. What would your estimate have been of the possibility of actual victory and achieving a free Laos in 1971?

Ambassador GODLEY. They were our friends, but I never regarded the military operations in Northern Laos as victory. It was really a sideshow of the big war in Vietnam. We pursued it with all in our power because I felt—I and my associates felt that we were holding down three first-rate North Vietnamese divisions, some artillery, even some armor. And those men were in Northern Laos, and they were not down in the delta or South Vietnam. But I never saw a victory in that.

When the North Vietnamese were pushed back, as they were twice, three times, they'd just send in fresh troops, and their troops were first rate compared with our indigenous Lao forces.

Senator KERREY. What sort of representation, then, would have been made to the Hmong and other tribes people who were fighting? Did they not, on the ground, have some expectation of a free Laos, or perhaps some state?

Ambassador GODLEY. The Meo, now called Hmong were bitter opponents of the North Vietnamese. This was a, you might say, semi-tribal conflict. But most of our irregulars were Hmong.

Senator KERREY. I am aware there was a considerable amount of fighting going on in 1971 and 1972, and certainly the combatants could not have regarded it as a sideshow. They must have had some expectation of a free Laos, or some expectation?

Ambassador GODLEY. Yes, definitely. They wanted to knock Laos off.

Senator KERREY. But your sense of it, on the other hand, was that that was not likely to occur.

Ambassador GODLEY. My sense of it was I'd do my best to keep it from occurring.

Senator KERREY. Say that again?

Ambassador GODLEY. My assessment was that I would do my level best to keep it from occurring.

Senator KERREY. To keep a free Laos?

Ambassador GODLEY. A free Laos. When you say free Laos, I assume you mean the non-Communist Lao.

Senator KERREY. Yes, I mean that the Hmong or the Meo would be victorious; that our side would prevail over the Communists. Was your expectation that the—perhaps I misstated it in my first question.

The idea was—the question that I'm asking is whether or not you felt that the Hmong and the other tribes that were fighting against the Pathet Lao—was your sense that we would achieve a victory?

Ambassador GODLEY. Well, the problem, Senator, was we weren't fighting the Pathet Lao.

Senator KERREY. I understand that.

Ambassador GODLEY. We, Uncle Sam, and the indigenous forces that we were supporting were fighting a North Vietnamese invasion.

Senator KERREY. Was your expectation then that it was unlikely that a victory would be achieved, and that in essence, even in 1971 and 1972, that the effort was essentially still a sideshow, a holding effort secondary to what was going on in North Vietnam?

Ambassador GODLEY. Correct. But just to elaborate a bit, we hoped we could hurt the North Vietnamese as much as possible. Again, to keep resources from going down to South Vietnam.

Senator KERREY. As I then connect that assessment with what was going on in Paris at the time, it is 1971. In August 1971, Secretary Kissinger, in negotiating with the North Vietnamese, with the DRV, agreed—appeared to agree that we would accept a list exchange at the point of signing.

Between that time and the actual final signing that occurred on the 27, initially, and occurred on the January 23, there were many discussions about prisoners in all of Indochina, and side agreements developed in that regard that were essentially representations. We, in the end, accepted two things, Mr. Ambassador. And I would like to have you comment on both individually if you could.

We accepted first of all—perhaps it is not fair to say accept. Let me change that because it is not clear whether Secretary Kissinger actually accepted. The North Vietnamese represented that they did not control the Pathet Lao; that the Pathet Lao—that was their ally and they could not make a representation as to whether or not—they could not include the Pathet Lao in the agreement.

And that secondly when—as I said, I am not sure Secretary Kissinger accepted that. Nonetheless, he did end up accepting a representation made by the North Vietnamese, made by Le Duc Tho, that he would do all he could to get this full accounting of our missing; that Le Duc Tho would do all he could in Laos. And he gave him what Secretary Kissinger described as a iron-clad agreement.

Now, is it your sense that the situation in Laos in 1972 and 1971, particularly in late 1972, that it was possible for Le Duc Tho to give an iron-clad agreement.

Ambassador GODLEY. He could give whatever he wished about Laos because when he was talking to Dr. Kissinger, he was really talking for Laos as well. Anything that Le Duc Tho said about Laos would be law in Laos in the Pathet Lao areas. But the North Vietnamese domination of everything Lao was complete; the Pathet Lao.

Senator KERREY. Would you say that a representation made by Le Duc Tho that he would do all he could to get a full accounting of our missing in action, that that representation itself was something we could trust?

Ambassador GODLEY. I wouldn't trust it. But, I mean, if wanted to, he would get it.

Senator KERREY. But a representation by Le Duc Tho—does that sound to you like an iron-clad agreement? Is this something that you would have distrusted yourself?

Ambassador GODLEY. Yes, sir. I never accepted as iron-clad any Communist agreement. As I mentioned, you go back to the Yalta Agreements, Chip Boland said, Yalta was a fine agreement but the Soviets never lived up to it. The Panmunjom negotiations and the French negotiations—the Communists in Indochina were well trained liars and their word was nothing.

Senator KERREY. Mr. Chairman, that is the end of my questioning. Perhaps, to give the witness an opportunity, I am not sure in that early exchange we were on the same wavelength. My con-

cern—and I would love at some point to talk to you about it privately or publicly. My concern is that it seems to me we were making representations to the Hmong there was a possibility of a victory that would provide either for a free Laos, or some sort of an area that they would be able to operate in independently, and that they were up against very strong odds as a consequence of North Vietnamese presence.

Although it is not terribly relevant, necessarily, to this particular discussion, I think it does connect to our sense of what was possible when Le Duc Tho represented that he would do all he could to get an accounting of our missing in 1972 and 1973.

Ambassador GODLEY. One of the great problems that thoughtful Americans had in Vientiane—members of the staff—was that we were sacrificing little Lao to protect our men in South Vietnam; that sure, we would tell them darn near anything just to keep them fighting. It may not have been totally honorable, but we felt that was the role of American diplomats or military leaders at that time.

We were fighting in Laos in our own way the war you were fighting in South Vietnam. Our raids against the Ho Minh Trail—they were nit-picks, but we were trying to do what we could to help.

Senator KERREY. If I understand you—and I just say again for the record, you say it may not have been totally honorable. If I heard you correctly, what I feel is a considerable amount of dishonor, I must say. Maybe it is me doing a retrospective that is unfair, but there were great battles in Laos and there was a great cause certainly for the Hmong.

Ambassador GODLEY. After January, I think, of 1973, if I remember it, I was frequently getting instructions to tell Souvannah Phouma, who was the Prime Minister of Laos—a gallant, honest man—tell him to do this or do that; ask him to do this or that, and give him assurances that we will resume bombing. We will do this and that if the North Vietnamese or the Pathet Lao do not agree. We knew darn well we could not resume the bombing, but I had to tell him that. It wasn't pleasant.

Senator KERREY. I just say again, just for your information, Mr. Ambassador—you probably know this already, but there were great battles, and there were expectations and promises felt by, in particular in this case, the Hmong. I recognize this is off the subject of this particular hearing, although I do believe it does connect to the representations that were being made by Dr. Kissinger in Paris at the time, and the assurances given to him by Le Duc Tho that the Communists in the North would do all they could to get an accounting of our missing. Thank you.

Chairman KERRY. Thank you, Senator Kerrey. Senator Smith?

Vice Chairman SMITH. Thank you, Mr. Chairman. Admiral Moorer, for several weeks before the signing of the accords in January 1973, General Eugene Tighe, who was then the head of intelligence for the Pacific command, was asked by the Joint Chiefs to make a list of American POWs that we could reasonably expect to be repatriated both from Laos and Vietnam. The list contained some 900 to 1,000 names yet, as we know, only 577 showed up on the Vietnamese list.

Now, Tighe has testified in depositions to us that he was, quote, unquote, shocked by the difference in those two lists. Would you make the same characterization? Were you shocked by that?

Admiral MOORER. Well, at least I was surprised but, at the same time, I think that after we had gone back and forth through this, the number, the 591 or whatever it was was a certainly first step. And when we—getting back to these messages of stopping and starting or, rather, why the stop and why the start message, they all had to do with, really, the 10 people in Laos.

We were trying to get General Hoa, who was a North Vietnamese representative, to deal with the Laotians, because he said that as long as it was handled by the four power committee, no dice. It had to be a bilateral arrangement.

So between the time of the message stopping the withdrawal, I think is what you're referring to, and the message reinstituting the plan which had been made out for several weeks about how we were going to coordinate the POWs with the troops, and we had gotten it down to 5,000 troops and about 150 POWs, I think it was, counting the ones from Laos—during that, I just want to finish—during that 25 hours or whatever it was between those two messages, we got the word that they were going to bring in the POWs. So, we started up again.

I think one thing the committee overlooks is that we do a terrific amount of business on the telephone; on the secure telephone. I was telephoning all the time. So, you are not necessarily going to find a message which records every action we took.

Vice Chairman SMITH. Well, Admiral, that really was not my question. You indicated—you used the word surprised. General Tighe used the word shocked. The point is if you are shocked or you are surprised, there is a reason for the shock and surprise. And the reason for the shock and surprise is because you had some type of information, including a list of anticipated POWs, that we had reason to believe were POWs. Is that not correct?

Admiral MOORER. We had missing in action.

Vice Chairman SMITH. No, you had an anticipated list of POWs. Is that correct or not?

Admiral MOORER. Well, that was worked out by General Tighe.

Vice Chairman SMITH. That is not what I am asking you. Did you see, hear, know of, or any other word that I can use to show some reference to an anticipated list of POWs? Forget MIAs. POWs—did you know of such a list?

Admiral MOORER. If he made out the list, I saw it. That was his job.

Vice Chairman SMITH. Well, we cannot find that list. Now, we have been told by a number of sources that there was such a list. We have yet to find it. The committee has been searching for it for several months and still has not been able to come up with that list.

I am just asking you to confirm in your best recollection, was there such a list or not? Did you recall seeing a list provided to you of anticipated POWs that we expected may come out of Vietnam and/or Laos?

Admiral MOORER. I remember seeing many lists but I couldn't say whether I remember that specific one you're referring to.

Vice Chairman SMITH. Well, General Tighe says that it was prepared at his direction, and he said the list existed, and we cannot find it. Let me—

Admiral MOORER. I don't have an office. I don't have a secretary. I have been retired 20 years. And I don't have the list.

[Laughter.]

Vice Chairman SMITH. I understand you do not have it, but what I am saying is it was prepared at your direction according to the testimony of General Tighe.

Admiral MOORER. Everything that happened then at the Joint Chiefs occurred at my direction.

Vice Chairman SMITH. It is not exactly an obscure document, Admiral, with all due respect. It is an anticipated list of POWs is the testimony that we have received. It is not a document about some troop movements someplace. It is an anticipated list of POWs which you folks had which, when the Vietnamese provided their list, it obviously did not match.

I can understand why you would not have the list or remember names on the list, but you ought to remember, I believe, that such a list existed. And you are saying you do not recollect the list or not. What is your recollection?

Admiral MOORER. I can't say specifically. I recollect a list you may be talking about but I can't identify it. But I think you should get that kind of information from the Defense Department.

Vice Chairman SMITH. Well, we are trying but we have not been able to get it yet. On March 21, 1973, the Joint Chiefs of Staff received from DIA a memorandum that said, quote, there are approximately 350 U.S. military and civilians listed as missing or captured in Laos. And I am distinguishing between POWs now, in fairness, missing or captured in Laos. Of this total, approximately 215 men were lost, quote, under such circumstances that the enemy probably has information regarding their fate, unquote. What does that mean?

Admiral MOORER. It means what it said. I mean, if we had been able to go all over Laos with teams for instance, as I pointed out, as we did in Iraq looking for nuclear capabilities, we could have verified that. But we did not have the capability.

Vice Chairman SMITH. But in the summation of the same document, in the concluding paragraph, it says, there is evidence that the Pathet Lao have information on captured, missing U.S. personnel, and "should be able to provide a list of alive U.S. POWs."

Now, Admiral, surely you had information to back up that kind of a statement. What information did you have?

Admiral MOORER. I did not write that statement.

Vice Chairman SMITH. Pardon me?

Admiral MOORER. I didn't make that—

Vice Chairman SMITH. I know that. But the DIA was providing this for you as the Paris Peace Accords were being implemented here. Surely, you must have asked for back-up documentation on that, did you not? You asked for no back-up documentation?

Admiral MOORER. Of course I asked for back up and—

Vice Chairman SMITH. Well, what did you ask them? What did you ask the DIA?

Admiral MOORER. I am not going to answer that kind of question, because I don't remember it. And I am not giving you anything—I just swore that I was going to tell the truth, the whole truth, and nothing but the truth, and I don't remember it.

Vice Chairman SMITH. So, DIA tells you that there is a list of captured—they believe there is a list of captured POWs, and that they have information to believe that the Lao would have those POWs. That is presented to you 9 days—8 days before the President's statement, "All POWs are home." And you did not challenge that?

Admiral MOORER. According to you, it was presented to the Joint Chiefs of Staff. I could have been in Europe or Vietnam, most any place. I don't remember whether I was there and whether it was presented to me or not. It should have been as a routine matter. But I can't discuss it because I don't remember it.

Vice Chairman SMITH. All right, fine. I do not accept that. But you are saying it, so I cannot stop you from saying it. But 215 is a very specific number. We are talking about American POWs. We are talking about the best intelligence. Every witness that has come here has said the intelligence was excellent. They did not say it was lousy. They said it was excellent evidence.

And you are using very specific numbers here: 215 are being presented. Not about 200, about 400, about 5. It is 215. It is very specific information. It is provided to you eight days before the final wave of POWs was supposed to come home, according to the Paris Peace Accord agreements. And you do not recall it.

Fine. That is your testimony. That is a good expression, I guess, to get out of answering the question.

Let me move over to—

Admiral MOORER. If I knew the answer, I'd give it to you.

Vice Chairman SMITH. All right.

I wish somebody knew it. Because the list has to exist. And we cannot find it.

Ambassador Godley, let me ask you one question. You stated that there was no evidence of large numbers of people captured in Laos during your watch. Is that correct?

Ambassador GODLEY. That's correct.

Vice Chairman SMITH. Other than the six that you—

Ambassador GODLEY. The large number—I assume you mean at least 50.

Vice Chairman SMITH. OK, you are saying a large number is at least 50. But, other than the nine that the Vietnamese released, I am just asking you, your testimony is that you had no evidence that there were any large numbers of POWs in Laos?

Ambassador GODLEY. That is correct.

Vice Chairman SMITH. Well, I am going to pass a document to you. Would somebody please give this document to Ambassador Godley. While you are getting it, I am going to refer to this. This is a CIA document, it is not classified, from 1969, which confirms enemy prisons in Laos.

And there is a specific code number given to the location of the prisons. And basically, they are the grid marks for the prisons. There are one, two, three, four, five, six, seven, eight, or nine refer-

ences to specific prison locations in Laos during the war. This is not after the war; this is during the war.

The first one says American prisoners. The second one, on the other side, it says possible nationality and/or number of prisoners. Some reference foreign national prisoners other than Americans. But, in one case, if you read, it says American prisoners. Another one says American pilots, possibly 20, in parenthesis. Another one says American pilots. Another one says American prisoners. Another entry says American prisoners. Another one says approximately 15 American prisoners. And another one says prisoners in a cave, possibly Americans.

Have you ever seen this document?

Ambassador GODLEY. No, I have not, until now.

Vice Chairman SMITH. It was produced by your embassy in Laos.

Ambassador GODLEY. No, sir. I don't think it was. I think on the top, doesn't it say, CIA?

Vice Chairman SMITH. It is my understanding it was produced by the embassy or, if not the embassy, the CIA. But you are testifying you have never seen it?

Ambassador GODLEY. I have no idea what that's all about.

Vice Chairman SMITH. Well, the CIA and the embassy were very closely linked at various times. And I do not want to get into any more detail on that. But I am very concerned about testimony here. We are talking about American POWs. We are talking about trying to get the truth and the answers. And I think the answers that you folks are giving me are evasive.

Now, it does not necessarily mean that it is intentionally evasive, but they are evasive. And what I am getting at is, when you get a document, whether it is produced by the CIA or the ambassador's office, the embassy, and you have specific locations of prisoners—now, if you can explain to me—this is 1969—I admit that. That is not 1973. But we are talking about a lot of prisoner references here, and a lot of very specific locations. Nobody yet has explained to this committee where those people went.

What happened to those people? Nobody has explained that. We are talking about huge references to prisoners here. And this is intelligence data that you folks had. And nothing changed, as far as the testimony that we have received before this committee. Not a damn thing has changed that would indicate what happened to those people.

Nobody said they were executed. Nobody said they were released. And nobody said they came home. So what happened to them, and do you folks have any information on that?

Ambassador GODLEY. I do not.

Vice Chairman SMITH. No information?

Ambassador GODLEY. What I would like to know, what is that blacked out business up here?

Vice Chairman SMITH. I would like to know that myself. This is the way we received the document, which was in a redacted form. But we will try to find it.

Ambassador GODLEY. I have with me the gentleman who was CIA station chief in Laos in 1969. With your permission, I would like to consult with him.

Vice Chairman SMITH. I have no objection to that, Mr. Chairman, if he can tell us what the redacted—

[Pause.]

Ambassador GODLEY. I can't answer the question of what was blacked out. Was this considered the A-1 or F-6?

Vice Chairman SMITH. I am sorry, I did not get that.

Ambassador GODLEY. Was this considered, up here, as good information, good, hard information or—

Vice Chairman SMITH. OK, you say it is not good information. I frankly do not know.

Ambassador GODLEY. The other point, sir, that has been brought to my attention, this might well have been a document prepared by CIA headquarters, pulling together various and sundry reports. You notice that—

Vice Chairman SMITH. My time has expired and let me just move to Admiral Murphy for a second for one final point. And I apologize to my colleagues.

Let me just retract a comment that I made regarding evasive—Admiral Moor—

Admiral MOORER. Thank you.

Vice Chairman SMITH. I did not mean to—I retract the statement of evasive.

Admiral MOORER. I do not have a reputation of being evasive, Senator Smith.

Vice Chairman SMITH. No, you do not. And there is a difference between being evasive and not recalling something, or your testimony saying you are not recalling something. And I apologize to the witness for that.

A final point. Admiral Murphy, have you ever seen any aerial photography alleging to be American POWs in Laos, or Caucasians in Laos?

Admiral MURPHY. No, I don't recall any photography in Laos at all. Of course, during the course of the war I would see quite a bit of photography that was on its way to the Secretary.

Vice Chairman SMITH. Did you ever hear any testimony about aerial photography about Caucasians playing volleyball in Laos?

Admiral MURPHY. No.

Vice Chairman SMITH. Next to a cave, playing volleyball in Laos?

Admiral MURPHY. No, I haven't. No, I never even heard that one.

Vice Chairman SMITH. In Sam Neua?

Admiral MURPHY. No, I did not hear that.

Vice Chairman SMITH. What about you, Ambassador?

Ambassador GODLEY. We had one very peculiar incident. Some random aerial photography happened to take a picture of a rice paddy or some cultivated area, and we thought we saw USAF spelled out in this field, even with an arrow. We got very excited about it, and we sent an intelligence team of local American irregulars—these were Meo. They went there and they said there was absolutely no evidence of any American or any other prisoners in that area.

Vice Chairman SMITH. I am almost finished, Mr. Chairman. In a recent statement from DIA regarding some other things that are going on that I do not wish to disclose here in public, CIA has said in this memorandum, "We studied other information to access ac-

tivity in Houa Phan Province in general, and the Sam Neua area in particular, and we reached the following conclusions. An historical precedent exists for suggesting the presence of American POWs in the Sam Neua area. Photographs taken by a reconnaissance aircraft in October 1969 show what may be as many as 20 non-Asians, accompanied by Pathet Lao guards, near caves at Ban Nakai Tua, 20 kilometers east of the Sam Neua markings." Sam Neua at the time was a major Pathet Lao stronghold.

I have here, which I will not open the envelope, and I would be happy to show them to any of the witnesses, those aerial photographs. These aerial photographs were shown by General Tighe to the leading expert in analysis of these, and he indicated it was his best analysis that they were Caucasian.

Apparently, it is the testimony of three very critical witnesses—or two, not Admiral Moorer, but two very critical witnesses here that they have never seen or heard of these photographs. Is that still correct? I would be happy to show them to you.

Admiral MURPHY. Unless you—you know, we are trying to remember. You know, this recollection is not an easy thing. You want to show them to me, maybe I can recognize them. I do not recall having seen the photos.

Vice Chairman SMITH. The reason I bring it up, Admiral, is on January 29, at the WSAG, you indicate that you do not recall being there, but there was a reference in there, in those WSAG minutes, to comments allegedly made by you about photos from the caves.

Admiral MURPHY. Well, I am sure that's why you're asking me, and that's why I'm here. But I've already explained why I think there's a mix-up in that transcript. But let me look at the photos.

Vice Chairman SMITH. Those are, I am told, declassified but committee confidential. I do not think we ought to show them. They are official use photographs. I really probably should not show them to the public.

[Pause.]

Vice Chairman SMITH. While you are reviewing them, I guess just to comment, if we are talking about negotiating an end to a war and accounting fully for all of our prisoners of war, and we have photographs like that—if somebody has presented you an analysis of those photographs and they say they are not true, they are not accurate, they are not Caucasian, they are something else or somebody else, fine. But your testimony is not that you got that testimony. Your testimony is that you never saw the photographs, and that very well may be the case. But the point is, it shows there is a communication breakdown somewhere, in terms of information that we had on POWs.

And I would submit that it makes common sense to conclude that the documents that we have seen and the documents that I have presented here about American POWs, in fact, had substance. There was a reason for those documents. We had information to conclude, even if not totally conclusive, but at least to assume, that people were alive in Laos and that we had this information. And that is my point.

I just conclude by saying, what is your reaction to those photographs?

Admiral MURPHY. I don't recall seeing them at all. And the fact that I don't recall seeing them I don't think we should imply from that that we don't give a damn about finding our prisoners of war.

Vice Chairman SMITH. I didn't say that.

Admiral MURPHY. I was just as interested as anybody at this panel or on this committee to get every prisoner—

Vice Chairman SMITH. I did not say you did not give a damn.

Admiral MURPHY. Well, Senator, you almost sound like, you know, we were neglectful somehow or—

Vice Chairman SMITH. I am trying to find out why this stuff existed, and the people who were concluding—

Admiral MURPHY. That's low-level photography. You'd have photo analysts would look at that.

Vice Chairman SMITH. They did.

Admiral MURPHY. The report that would come up to the Secretary of Defense would be based maybe on an analysis of that. But they wouldn't send lousy photography like that up here.

Vice Chairman SMITH. OK.

Admiral MURPHY. That's not a very good picture.

Ambassador GODLEY. Senator, my only comment is that photo analysis is a very sophisticated and tricky game. I would not say those are false, but I don't think we can safely assume they're Americans. I assume the prisoners there are the ones with the white shirts. That could just as well be Lao that the Pathet Lao were holding as prisoners.

Vice Chairman SMITH. I yield to Senator McCain.

Senator MCCAIN. Thank you, Mr. Vice Chairman.

And I would like to begin by thanking you for retracting your comment about evasiveness.

Vice Chairman SMITH. It gets heated sometimes, and I do apologize. It was uncalled for, and I apologize.

Senator MCCAIN. I know you share my respect and admiration for Admiral Moorer. And I also appreciate, and I know Admiral Moorer does, that you feel very strongly about this issue, and your commitment to doing the best that you possibly can, along with the rest of us, to ascertain the facts of the case.

And I hope, by the way, Mr. Vice Chairman, that we can get these photos declassified as rapidly as possible. Since we have discussed them, I would think the American people should have the right to see these. Maybe we can bring it up with the chairman to try to get these photographs declassified as quickly as possible.

Along that line, Admiral, may I ask the year of your birth?

Admiral MOORER. February 9, 1912.

Senator MCCAIN. So you are now 80 years old?

Admiral MOORER. Yes. And before you ask me another question, Senator Smith, I just want to point out, this is quite an experience for me because I took flight training with Senator McCain's grandfather. And his father was, of course, Commander-in-Chief of the Pacific when I was Chairman of the Joint Chiefs of Staff. And Senator McCain, has really a spectacular record, in terms of what he went through and how he recovered, and how he performs as a Senator, not only as a naval officer. And so, here there are three generations I have known so well, and his mother is sitting right behind me.

So, with that, I will go ahead and answer the question. Senator McCAIN. Thank you, Admiral. And I appreciate that very much. And obviously, I have not only respect but great affection for you, as do hundreds of thousands of other men and women in the military who had the privilege of serving under you. And I understand that many years have passed since you were actively involved in this issue, and at the time you were involved in many other issues.

I know you can understand that this issue is of utmost importance to the American people, and especially to the families of those who are still listed as missing in action. And I hope you will understand when questioning becomes very strong, given the urgency of this issue, and the belief that you and several other witnesses today might have very vital information. I hope you can appreciate that.

I would like to go back, if I could just for a second, to the two messages, one day after the other. Just for the record, when you read these messages—and I would like to quote very quickly—your message on March 22 says, the JCS message says, "Do not commence withdrawal of the fourth increment until the following two conditions are met: the U.S. has been provided with a complete list of all U.S. POWs, including those held by the Pathet Lao, as well as the time and place of release; and the first group of POWs have been physically transferred to U.S. custody." That was the criteria on March 22.

Then, on March 23, a message was sent, and I know, Mr. Chairman, this is part of the record, both of these messages, it said, "Seek private meeting with North Vietnamese representative. Our basic concern is the release of the prisoners, as we do not object to the PLF playing the central role as long as the men are returned to us. We need precise information and understanding on the times and place of release of the prisoners on the list provided by February 1. Of course we intend to pursue the questioning of other U.S. personnel captured or missing in Laos following the release of the men on the February 1 list."

The men on the February 1 list are the nine or 10, is that correct?

Admiral MOORER. That's right. There were, I think, seven and three civilians, something like that.

Senator McCAIN. "For your information only, the purpose of the above is to try to get things back on track and moving again."

Admiral MOORER. Right.

Senator McCAIN. One reading this would reach the conclusion that the Joint Chiefs of Staff dictated a certain policy: suspend everything on one day, and then the following day said go ahead and move forward with the proceedings.

Admiral MOORER. All right. First, you've got to recognize that Laos did not participate in the negotiations for the settlement—the agreement—the so-called agreement with protocol. And when an effort was made by General Woodard to get General Hoa, who was a North Vietnamese rep, to do something about the Laos POWs, his reply was that Laos did not participate in the negotiations and did not sign the agreement. Therefore, I cannot do this as a member of the joint military committee.

And then he said, but perhaps we can work together on this on a bilateral basis. And so, Woodard talked to him, and he promised then that he would go and get these POWs out of Laos. As long as it was not credited to the joint committee. That it was just a little deal he was making between the American general and the—now, that occurred in this interval. So, when he said, I'm bringing out the Laotian prisoners, well, then we went ahead with the program.

Everybody was involved in trying to put together an orderly program that would match the withdrawal of the pitifully few troops we had, 5,000, with the fly-out of the 150 or so remaining prisoners, which came from Laos, North Vietnam, and South Vietnam. And, as a matter of fact, we even got a couple I think from China.

But, in any event, that's why the idea that somebody ordered me to rescind the first message is nonsense. That first message was what I think made General Hoa agree to act bilaterally. But he refused to act under the system that generated the first message. The second message was sent after Hoa delivered the POWs from Laos.

Senator McCAIN. Thank you, Admiral.

Could I go back again to a question that Senator Smith asked. If you and the others were "surprised" about the few number of those who were listed as being returned, or returned POWs, do you recollect any specific action that you or the President or the National Security Advisor or anyone decided to take to try to get a better handle on the fact that we got back a significant percentage of those who were captured over Vietnam and literally none of those who were captured by Pathet Lao?

Admiral MOORER. Well, let me repeat what I said a while ago, that we had in hand a schedule for bringing out the 150, or whatever, it was close to 150—those in North Vietnam, those in South Vietnam, and the 10 out of Laos. And, consequently, we wanted to—in their interest and to be fair to them, since they thought they were going home. I don't know when you came out, but some of the people had already gone so we went ahead with the fly out plan.

Now, in answer to your specific question, of course, that was supposed to be taken up with further negotiations with North Vietnam. In my opinion, and I don't know whether the Ambassador agrees with this, the North Vietnamese had an iron grip on the Pathet Lao. And the Pathet Lao did exactly what the North Vietnamese told them to. So, the pressure had to be put on the North Vietnamese.

But, as I repeat, the only way you could verify these photographs and these DIA lists and so on is to go to Laos with an armed force and find out. In my opinion, you know, when you say you hope they're over there, they may be over there, or the DIA says they're over there, but they don't—they never do name names or a specific position they happen to be at the moment. They may have been in 1969 some place. They may have been transferred from Laos back into North Vietnam.

But the idea was that right after this—immediately after, we of course discontinued U.S. MACV, officially discontinued, disestablished it. And then of course we just lost all of our leverage. And, consequently, what happened was that we very quickly, by 1975, we had lost not only South Vietnam, but also Cambodia.

Senator McCAIN. Thank you, Admiral.

Admiral Murphy, do you know, or had any information while you were working for the Vice President of the United States, of a meeting that took place in 1981, or in fact, for that matter, in any year, where the subject was an offer of prisoners in return for money?

Admiral MURPHY. No. That question didn't come up in the deposition in that way. But I was asked whether or not there was any kind of a meeting. I racked my brain then, and I still, in racking it again now on a more specific question, Senator, I really still cannot remember any such conversation that I was involved in with the Vice President and anybody else.

Is there anything that could refresh—

Senator McCAIN. Well, there is an allegation, Admiral Murphy, that has been floating around for a long time, that there was a meeting with the President, in which the Vice President and others were present. The year may not be 1981, but I think the allegation concerns that, that information was brought forward that the Vietnamese would return some live Americans in return for several billion dollars. I believe that is the correct outline.

Admiral MURPHY. Well, that would help me remember. If it were a meeting with President Reagan and Vice President Bush I could better put myself in that context, and I cannot recall that kind of a—being with him on that kind of a meeting at all. And the year doesn't make any difference.

Senator McCAIN. OK.

Let me ask, at any time, did you receive or know whether the Vice President or the President of the United States received information of an offer of Americans for money?

Admiral MURPHY. I doubt very much that that could have happened. It's something that he would probably have discussed with me if he had gotten it separate from me. He never did. I can only assume that it never happened.

Senator McCAIN. Would it be safe to assume that if something like that did come to your attention it would be pretty startling?

Admiral MURPHY. Oh, yes. And we would immediately involve the CIA and DIA, and it would go through the same procedures that we went through back in the 1970s on something like that. So, even when you think that through, the action that one would have to take if an offer like that were made, that just further reinforces my belief that it never happened.

Senator McCAIN. Well, if you come across any information or recollect any information, I am sure you would communicate it—

Admiral MURPHY. Oh, my gosh, yes.

Senator McCAIN. Thank you very much. Mr. Chairman.

Chairman KERRY. Thank you very much, Senator.

Senator Grassley.

STATEMENT OF HON. CHARLES E. GRASSLEY, U.S. SENATOR FROM IOWA

Senator GRASSLEY. Thank you, Mr. Chairman.

I have got in front of me documents that are entitled number of casualties incurred by U.S. military personnel in connection with the conflict in Vietnam. And the bottom line has a figure that is

current captured. And I do not know whether they are daily are weekly reports, but probably weekly reports. On March 31, 1973, there are 81 listed; April 7, 1973, 80; April 14, 1973, and that is the date that Shields made his statement that there are not any alive.

We had 75, April 28, 1972.

Chairman KERRY. Would the Senator, just for my own edification, 72 what?

Senator GRASSLEY. Seventy-two current captured.

Chairman KERRY. Where?

Senator GRASSLEY. These would be the reports, presumably people that we were listing still being held in Vietnam.

Chairman KERRY. Which reports? Just for the record, if we could identify the reports it would be very helpful.

Senator GRASSLEY. Well, the title of it is—they would be from the Directorate for Information Operations, Office of the Secretary of Defense, Controller. May 12, 1972; May 19, 1969; June 9, 1967.

Admiral Murphy, some of these—I have your name on them. There are a couple here that do not have your name on them. It just says Admiral Red. I just wondered if you would be familiar with these reports? And if you are not, I have copies of them. I do not think you really need them for my questioning of you.

Admiral MURPHY. Well, I would have to see them to refresh my memory.

Senator GRASSLEY. These are, as I said, the official status reports of the Department of Defense, maintained by the controller. And it showed, as of these various dates, the number of prisoners. And it entitled them, currently captured.

Now, I am not here to corner you in any way. I just want to ask your view, based upon these reports, and hopefully your familiarity with them. You also have a letter there that I want to refer to that came from Clements to the President.

Admiral MURPHY. That letter is dated after I departed.

Senator GRASSLEY. OK. But I want to use this—

Admiral MURPHY. Now, as far as these reports—

Senator GRASSLEY. Go ahead, please.

Admiral MURPHY. Up in the upper left-hand corner is typed "Admiral Murphy."

Senator GRASSLEY. Yes.

Admiral MURPHY. Can you explain to me, whoever gave these to you, what that was supposed to mean? Why is my name up there?

Senator GRASSLEY. We do not know. Those were documents that were declassified. And we assume that you had something to do with them, because they had your name on them. But the name was on there in the classified version, as well.

Admiral MURPHY. I see.

Senator GRASSLEY. OK.

Admiral MURPHY. Well, this looks like it's a routine report.

Senator GRASSLEY. OK.

Admiral MURPHY. I don't know from looking at it just who it went to. And it's from the comptroller, the assistant secretary of defense comptroller, who apparently must have been keeping track of numbers for fiscal type reasons of some sort.

Senator GRASSLEY. Yes.

These people had the responsibility for keeping these records on the number of prisoners.

Admiral MURPHY. I do have a faint recollection, Senator, that these were pieces of paper that I may well have seen before.

Senator GRASSLEY. OK. Well, then I also want to—in the first page of this letter, the first sentence of the second paragraph is important. It says, "Presently, there are 1,278 military personnel who are unaccounted for as a result of the hostilities in Southeast Asia. Of this number, 67 are officially listed as prisoner of war based on information that they reached the ground safely and were captured."

Now, that is from Clements to President Nixon. And that is on, I believe, July 17, 1973.

Now, the point that I want to raise and that I would like to have you respond to is, as I see it, the bottom line is that we may not have known with 100 percent certitude that these men were prisoners. But it seems to me that we sure as heck believed that to be the case, to the point that we would list them as current captured. And, at the least, therefore—

Chairman KERRY. Could I just ask my colleague a question. Because this is the first time I have seen these, and I am trying to understand what they are, too. It says, "Number of casualties incurred by U.S. military personnel in connection with the conflict in Vietnam." And it says, "Current captured, 81, cumulative from January 1961."

Senator GRASSLEY. Let me clear up something for you. This was from the Department of Defense to the Library of Congress. These did not come to the committee.

Chairman KERRY. No, I understand.

Senator GRASSLEY. OK.

Chairman KERRY. But I am trying to ascertain, as I am sure the witnesses are the reports say in connection with the conflict in Vietnam. Now, is this referring to Laos only? I do not see the word Laos on it.

Senator GRASSLEY. We are not talking about Laos.

Chairman KERRY. Well, if we are not talking about Laos, the notion that there were only 81 prisoners, cumulative from 1 January 1961, in connection with the conflict in Vietnam is ridiculous, because, if this is reported during the week of March 31, 1973, clearly, we understood that by 31 March 1973—you see, I am trying to get—I do not know what this means.

Senator GRASSLEY. That is how many they had at that point, after Homecoming.

Chairman KERRY. After Homecoming?

Senator GRASSLEY. Yes.

Chairman KERRY. So, every week after Homecoming they released one of these documents with current captured. All right, now it makes sense. So, it was current captured post-Homecoming?

Senator GRASSLEY. Yes.

Chairman KERRY. That they were listing 80, 72, 71?

Senator GRASSLEY. Yes.

Chairman KERRY. Fine.

Senator GRASSLEY. OK.

Now, as I said, we probably agree about whether we absolutely, certainly know that these men were prisoner. But, as I said, we sure believed that to be the case. And we believed it to the point that we had a list entitled "Current captured." And, at the least, it seems to me, this information conflicted with both the Nixon statement on March 29 and the Shields statement on April 14. And I would like your reaction to that, and I hope you would agree with that, based upon these documents that you had seen, or presumably had seen because they had your name on it.

Admiral MURPHY. Yes. We're going to have to go back and figure out just what this particular report was for. I am confused about the comptroller's responsibility in this area. Maybe Admiral Moorer knows better than I remember.

So, first, I would like to—I need more information on what the heck he used, what this was made for. Was it something to go to the Secretary? Was it something going just into the comptroller's file with a copy to the front office?

It's very difficult for me to know whether or not they also were considered to be responsible for keeping the accurate numbers. Or were we relying more on DIA numbers than this—the comptroller's numbers?

Chairman KERRY. Well, they do on their face, if I could just insert, seem to indicate that this was a tracking process. Because there was a war continuing, post-Homecoming, correct?

Admiral MURPHY. Yes.

Chairman KERRY. I mean, we did have a war going on in Laos, and we had operations we were involved in, correct?

Admiral MURPHY. Yes.

Chairman KERRY. In fact, it records some five deaths in the week of April 7. And it records eight deaths in the week of April 14; 12 deaths in the week of April 28. Those are hostile deaths.

Admiral MURPHY. Though I imagine it's some kind of fiscal tracking for things like pay and—

Chairman KERRY. The number of missing in action also seems to track what we were then reporting at the end of the war as our current missing in action number. It was 1,166. If you recall, at the end of the war we were about one thousand and some missing in action. And then that jumped significantly with the reclassification process in subsequent years, and we went up to the 2,000.

So, there is—

Senator GRASSLEY. Mr. Chairman, it seems to me like that number could have been going down as a result of information we were getting from returnees.

Chairman KERRY. Well, the point of these questions is to find out what the—what's this number at the bottom on the right-hand side of the report. What's the significance of that? Is that correct?

Admiral MURPHY. It's a number going down over time.

Senator GRASSLEY. Well, I was hoping that your familiarity with the document might be that you would know that this number was enough information that it conflicted with the statements that Nixon and Shields were making. But if you cannot say—

Admiral MURPHY. No, sir, I can't.

Senator GRASSLEY. You cannot say that?

Admiral MURPHY. You see, I left about May 5, I believe, which is, you know, three or four reports to the end of this. I cannot remember how these were being used. I do not remember the—how much authenticity is attributed to them. It would seem to me, somebody in the comptroller's office would have to testify to just how they were using these numbers.

I will admit that it says current captured, is a real number going down to 67 by the end of this period.

Senator GRASSLEY. I also have in my hand—I will not question you about it—but a June 30, 1973 list called U.S. military personnel missing and captured in Southeast Asia, an alphabetical name list prepared by the deputy controller for information operations, Office of the Assistant Secretary of Defense, Controller, that has, you know, the accounting and the names of all these people here.

Admiral MURPHY. I was in the 6th Fleet at that time, sir.

Senator GRASSLEY. Well, I was hoping, because it had your name on it.

Vice Chairman SMITH. How were they listed, Senator Grassley? Are they listed as captured?

Senator GRASSLEY. Missing. OK, at the end here they are listed as hostile captured, and there are 67 separate names listed.

Vice Chairman SMITH. And what was the date of that?

Senator GRASSLEY. Well, the compilation is June 30, 1973.

Vice Chairman SMITH. So, we are listing—I apologize to the Senator for interrupting—

Senator GRASSLEY. And it is consistent with this weekly report here. It is also fairly consistent with the statement that Clements made to the President, a memorandum that we have, July 17, 1973. I read one sentence, and I will repeat, "There are 1,278 military personnel who are unaccounted for as a result of the hostilities in Southeast Asia. Of this number, 67 are officially listed as prisoner of war based on information that they reached the ground safely and were captured."

Vice Chairman SMITH. Now, I apologize profusely for interrupting.

Senator GRASSLEY. No, that is OK.

Vice Chairman SMITH. I am trying to understand this. I have not seen this document. This is the first I have heard of it myself. But the document says on June 30 that we are listing and distinguishing between missing and POWs. We now are listing 67 hostile captured people as prisoners of war on June 30, when in fact the official position as announced by the President and others is that there are not any more POWs. Am I correct? I am not trying to imply anything that is not the case here.

Senator GRASSLEY. Yes. President Nixon made his statement on March 29, and Dr. Shields made his statement on April 14.

Vice Chairman SMITH. And this is June 30, listing 67 people as prisoners?

Senator GRASSLEY. Yes.

Vice Chairman SMITH. Are they listed by name, Senator Grassley? Are they listed by names?

Senator GRASSLEY. Yes, they are listed by name.

Well, I think I will end my questioning simply by concluding that there is an absence of a full accounting for prisoners.

Chairman KERRY. Admiral, you have no recollection of that document or how your name appears on the top of it?

Admiral MURPHY. No, I don't, sir.

Chairman KERRY. I mean, looking at it now, can you recall whether you have ever seen that document before?

Admiral MURPHY. It does—I get the impression it was a routine report that came through, yes, on a regular basis.

Chairman KERRY. What would you have done with that report?

Admiral MURPHY. That I can't remember. That's what I was wondering. It should be addressed to somebody. It isn't. I could not even be sure if it went to the Secretary of Defense. I could not testify to that. And whether this is a file of them that I kept or why my name appears on it, I don't know. It's typed in at the top. It could have been typed in by anybody. But I do think I have seen these—at least up until the time that I departed, which was around the May 5, something like that.

Senator GRASSLEY. Since you say that you may remember seeing it, I wonder if it would be appropriate for me to ask if you just on reflection, how you would have viewed a report like this? Because we had our President saying there were not any prisoners there and there were documents going across your desk that said we had—the last report there, I think, was 67 in the middle of June 1973.

Admiral MURPHY. Well, based on the President's speech, I would have questioned this with the comptroller. And what the answer would be at this point, I can't remember. It could be just an updating as the data is coming in, as prisoners are arriving, because they were all home, I guess, by March. Just no way in my mind today, 20 years later, I can figure out how—

Chairman KERRY. Well, does that raise a question in your mind today as to whether they were, in fact, all home on the March—

Admiral MURPHY. Well, yeah, if I'm looking at a piece of paper that says there are 67 of them left.

Now, we should know what current captured means, you know?

Chairman KERRY. But this should not—Admiral, respectfully, I would say to you, you know, this should not be a mystery. Secretary Laird stood up with 14 out of 26 names that he knew were prisoners, and made a big hullabaloo out of them, and they did not come back either. It cannot be a mystery to people that the people that they stood up at a public press conference and said these guys were not on the list and then Operation Homecoming takes place and they are not home. I mean, any school child could have told you that, they are not all home.

Admiral MURPHY. Well, I completely agree, I completely agree with you. But what you asked me is what did I do with that information given that I knew the President said there were none in captivity and now I see a piece of paper that says that they were in captivity. My guess is that I challenged the comptroller on the numbers, and whether or not I got a suitable answer, I just can't remember.

Vice Chairman SMITH. I can tell you one of them that is right, and that is Robert Garwood. He is on the list here.

Senator GRASSLEY. Mr. Chairman, you would be challenging, or the admiral would be challenging then, the Secretary of Defense,

who was writing to the President that there were 67, I think. I do not have the letter in front of me now, but I think it was 67. On the July 17, 1973, Clements writes to President Nixon that there are 67.

Chairman KERRY. Well, we will pursue this, obviously. It is at the center of what we are doing here.

Yes, Admiral Moorer?

Admiral MOORER. Yes, could I make a comment please, sir? I believe that you will find that when the President made that statement he was in Key Biscayne. He made it through Ziegler, the public affairs officer, and I'm confident he was referring to simply the package that we had ready to come out. And all of those, 150 or so that were ready to come out except one that was found a little later down in South Vietnam, but they were on the way back. And I think that is probably what he meant when he said all. He meant all of the ones that we had scheduled. And there is another sentence in that public announcement, I think, that goes on to say but there are probably others we've got to search for.

Senator GRASSLEY. It is unfortunate, but I believe the public then and now has not read that statement any other way, and I do not think there has been any effort on the part of Nixon to clarify it.

Chairman KERRY. Well, I would say, Admiral, I think your effort to explain it that way is understandable and noble, but the fact is I read this morning a series of statements made by the President which did not refer to we are getting back the people on the list, it said all our prisoners are home. And in fact, there are three or four such statements, as I said. Let me read to you, this is from the—this is from specifically on May 3, he lists one of the provisions.

This was at a—this is a 54-page discussion, and listed is the Laos cease-fire agreement and says the release of all POWs within the 60-day period except for the Americans captured in Laos who were released—in the past tense—they were released within the 60 days provided for the prisoner release.

Second, on May 24, in a speech to the POWs, once they were all back he said 1973 saw the return of all our prisoners of war. He did not say to them we are still concerned about some of your friends; we are going to pursue it. He said you are all back.

And in a speech on June 15, he said that for the first time in 8 years all of our prisoners are back, all our prisoners are home here in America.

So the Senator from Iowa is indeed very correct that—and in fact, Dr. Shields, in his own memorandum written to the Secretary of Defense sought to correct his earlier statement, recognizing that it had become policy. And he specifically said to the Secretary: We have got evidence of three or four people, possibly from the Baron 52 flight, and then he was referring to another person and said this policy is not correct.

So I must say to you that the evidence is overwhelming to the committee that there is a gap between the stated public policy and between reality at that point in time.

With that said—yes, Senator Grassley?

Senator GRASSLEY. In regard to—this is probably more internal within our committee and our job of oversight, but you know, it is just strange to me that these documents with this kind of informa-

tion in it went directly from Department of Defense to the Library of Congress instead of coming to this committee first. Our committee should know this sort of information. That is no—I am not finding fault with our committee. I'm speculating.

Chairman KERRY. Perish the thought.

Senator GRASSLEY. Well, I am speculating—

Chairman KERRY. No, no, no. I am joking. I totally agree.

Senator GRASSLEY. I am speculating that they did not want you to see these documents, and if I had not had a staff person that would have gone to the Library of Congress and dug this information out, we would not have it today.

Chairman KERRY. I agree to that, and I think you and your staff person are to be congratulated for that. And it is not a minor issue that these documents obviously did not come to the committee. They confirm what we have been asserting in the context—if they are what they purport to be, and I want to be careful. We need further identification and understand the routing and understand that. And I caveat it in that context. But in their face they purport to confirm, and I think we need to explore that further, and we will explore that further, obviously. But what is uncontrovertible is the other lists that exist with various names.

I would just like to ask a quick question. We need to move onto the next panel and then we will take a brief break before we come back this afternoon with Dr. Shields.

Senator Dole has requested that he be allowed to make brief comments with respect to the Dole amendment, and that will take place, I think, when we return after the break. But let me just ask a quick question, if I may.

Secretary Laird said in a memo to you, Admiral Moorer, on September 9, 1971, that he was very concerned. And to his credit, Secretary Laird was one of the leaders of expressions of concern about the POWs. He was a sort of point person for the administration. And he said in a memo to you that he was very concerned that the United States Government had insufficient intelligence assets to handle prisoner of war, MIA intelligence assets in Laos. And he feared that the lack of reliable intelligence was, quote, hindering United States Government effort efforts to recover prisoners of war and MIAs.

In that memo he echoed an earlier Joint Chiefs of Staff memo from July 13, 1971 alleging—Ambassador Godley—he was alleging that the embassy in Laos had proven itself to be reluctant to accept military intelligence assets.

My question to you is was the embassy in Laos reluctant to accept military assets in order to increase the POW intelligence gathering for political reasons? In other words, there was a secret war, the CIA was fundamentally doing it, and that the embassy, if it had done that, might have somehow clouded the picture of who was involved in Laos and so forth. I mean, I would take it that might make sense. But I am just trying to understand what exactly was at the foundation of that reluctance, if it existed. Could you shed any light on that?

Ambassador GODLEY. Certainly. That reluctance did not exist. But we welcomed any assistance we could have in this domain.

Earlier today I mentioned meeting a member of your staff who went out there as a military interrogator. I think he spoke Vietnamese but I am not sure on that point. But he offered to me the fact that we, not only when I was there but also when my successor, Ambassador Whitehouse was there, we did everything possible to assist him in his work.

If I might mention one thing, however, there was in Thailand a military intelligence team. They were renowned throughout the American community in Laos for sending in complete and utter balderdash. They subsequently were removed at the request of the overall intelligence community.

Chairman KERRY. That would seem to indicate that while there may not have been a reluctance to have them, there was no confidence in what they could do if they were there.

Ambassador GODLEY. But that was one small team. But they wrote a lot of reports, and we spent a lot of time correcting them.

Chairman KERRY. Now, one final important question. On March 22, 1973, you sent a cable to the Secretary of State stating—and let me read this to you because it is important; we believe that the LPF holds throughout Laos more prisoners than found on the DRV list. But we believe that for the time being we should concentrate our efforts on getting these nine men repatriated as soon as possible.

The release of the nine POWs already acknowledged seems possible within the timeframe of the Vietnam agreement. However, we do not believe it is reasonable to expect the LPF to be able to produce an accurate total POW list by March 28. The LPF is just not focused on the POW repatriation and accounting problems until very recently, and probably cannot collect in the next few days the information we require. Therefore, we believe we should continue to press for the release of the nine acknowledged POWs within the timeframe, but deal with the questions of accounting for MIAs and determining whether there are additional POWs to be repatriated within the time frame of this cease-fire and military protocol.

There is a sort of ambivalence in that that I am trying to understand, and it is important to us. You said we believe they hold throughout Laos more prisoners. And in fact, we carried people as prisoners. But at the end of the memo we need to determine whether there are additional POWs to be repatriated. What was your thinking, then? That they may have been killed, that you did not know?

Ambassador GODLEY. Well, I think, sir, this is a bit of sloppy drafting. Really, I think the point we were making here was the bird in the hand is worth two in the bush. Let's get the nine men back, and then look into it.

Chairman KERRY. Let me assume that is true and not even second-guess it. The next question is you believed there were more, is that correct?

Ambassador GODLEY. Again, sir, later on, I think it was March 29 when we said we did not think there were any prisoners still in Laos. That, I think, reflects the further consideration and consultation with all elements of the American team in Laos. It's a blatant contradiction. I recognize that.

Chairman KERRY. Well, how do you explain this blatant contradiction? Was it a contradiction based on the politics that have been described by other people? Was it a contradiction based on a judgment based on fact?

Ambassador GODLEY. Certainly, it was not based upon fact. There were no facts available to us, unfortunately.

Chairman KERRY. But did not you carry people as POW? There were people on a list as POW?

Ambassador GODLEY. The nine.

Chairman KERRY. Beyond the nine? We, as a Government, carried people beyond the nine as prisoners, did we not? For instance, Shelton, Hrdlicka. In 1973, we did not know they were dead. They were carried as a prisoner.

Ambassador GODLEY. That's possible. Frankly, I don't recall. I cannot answer that question.

Chairman KERRY. Both of those people are on the list.

Ambassador GODLEY. The list of the nine. The nine.

Chairman KERRY. No, sir.

Vice Chairman SMITH. No.

Chairman KERRY. They are outside of the nine, is the point I make.

Vice Chairman SMITH. Right.

Chairman KERRY. And they are on the list that Senator Grassley has provided of the 67 still listed as captured, and you say by March we had decided there were none there, and yet people were still listed as prisoners. So what was it that allowed this decision to be made that just sort of—wiped it away?

Ambassador GODLEY. I just cannot answer that. I just don't know.

Vice Chairman SMITH. Will the chairman yield for a second, just on that point?

Just a follow-up point, and a couple of the names now have come out. But I guess the thing that concerns me about that is with three names that I am personally aware of, the ones that Senator Kerry just mentioned and Mr. Garwood, we know we had information on Garwood. He came back. Whether he was a prisoner or not, some people debate, but he did come back. And Hrdlicka we had information on, the photographic information. So there, the three cases that have been mentioned here are very specific and we had very specific information on.

Now, it is a big list, 67 people, but it makes me wonder just how much specific information we had on the others, and yet we are still walking away here.

Chairman KERRY. Admiral Murphy needs to run here. I do not think we have additional questions at this time.

Admiral MURPHY. Thank you.

Chairman KERRY. Admiral, thank you for coming very much.

If we could simply—the record is staying open, obviously, on these hearings, and if we did need any additional questions answered in writing, I hope we could turn to you. Thank you very much. I appreciate it.

Ambassador GODLEY. I just can't answer that.

Chairman KERRY. Can I ask you, Mr. Ambassador—

Ambassador GODLEY. But there's a contradiction there.

Chairman KERRY. Well, we appreciate your acknowledging the contradiction.

If I could just ask, on April 5—that is when you sent this opposite view—did you base it on Soth Phetrasy's comments? You did not?

Ambassador GODLEY. I would not base a thing on Soth Phetrasy. I think that just dreaming about how we would have had that contradiction, the POW issue was probably the number one thing upon our mind at that time. We were constantly cussing, then discussing that issue. Where were men there? Where? How, et cetera. And all I can say is as the top man, I would take the views of my subordinates, the key people we had, men who knew Laos intimately. And my reports would be the—some distillation of their views. It was a very, very difficult time.

Chairman KERRY. This has been very, very helpful. I think that in the last 3 days I, at least, am beginning to draw some lines here between some of these questions. What strikes me is that there was this group that we believed were POWs that somehow slid off into a category other than POW in people's minds, into a sort of MIA category without really having been accounted for, quote, as POWs. And indeed, we accept it was a very difficult time and a lot of things were happening. But I think the picture is, indeed, becoming clearer.

Admiral I want to make it clear so the record does not even understate it. I know you were very concerned about this. I know you disagreed with the decision. I know that if you had had your way you would have gone in at that time, and no one has ever doubted that. And I also want you to know, for this Senator, and I think I speak for the committee, any lapse of recollection on your part is taken only as indeed that, and there is not any question about Tom Moorer is a straight shooter, and we enormously appreciate your being here to share your thoughts with us.

Your deposition, incidentally, adds some additional light that we do not have time to go into today, and the deposition will clearly be made part of the record. Thank you very much, both of you.

Admiral MOORER. I've never seen my deposition.

Vice Chairman SMITH. Could I just interject one point? Admiral, I did apologize to you. I wanted to repeat the apology. It is an emotional issue for everybody. And again, I wanted to apologize to you for using the term evasive.

I just want to make another closing point here regarding these lists and the evolutionary process here during the Paris Peace Accords. There have just been more and more. I mean, I thought I knew a lot about this thing. But every single time we get into the debate here something else comes out.

Here are two quick things: April 14, 1973, after the Nixon statement, an information memorandum sent to Ellsworth Bunker saying that second priority, the DIA has provided—let me retract that. I do not mean to say it is a second priority because that is not what the intent is here. But II A has provided U.S. delegation folders with background information on about 80 persons in the category of POW, and then even today, here is a list that we have just received from—the committee received on the March 20, 1992, from Margaret R. Munson, director, DOD, POW-MIA central documen-

tation office. It lists 50 people who are in category I in Laos of survival code.

I mean, there is just no way that any reasonable person can conclude based on the documents and the information that this committee has received, that you could make the kind of statement that the President made and know that it was correct. And I will tell you, to speak for myself, this one Senator just does not accept it.

And I am not trying to draw conclusions. I am not drawing any conclusions about your recollections. I understand. You have admitted under oath that some of this stuff you had not seen, but I think that is the problem.

Admiral MOORER. What's the date on that, sir?

Vice Chairman SMITH. March 20, 1992. It is a list of 50 people in Laos who are still unaccounted for.

Ambassador GODLEY. Are there any current people on that list?

Vice Chairman SMITH. This is a March 1992 list. They've taken this and put the codes 1 and 2, and we have put survival code 1 as the highest. And most of the people—I have not double-checked it, but I think you will find, based on the names that I am seeing, most of the people on the survival code 1 list are also on the list that Senator Grassley referred to.

I can assure you—I see Carol Hrdlicka sitting out here. I bet she did not know about that list. I would bet she was not told that in 1973, as she has waited 20 years to find out what happened to her husband. I mean, I just think it is outrageous, Mr. Chairman. I am not reflecting anything on these witnesses when I say that.

Chairman KERRY. Wait, wait, wait, wait.

Admiral MOORER. I think it would be useful if you—

Chairman KERRY. Admiral, before you do that I want to put this list in its proper context here.

Vice Chairman SMITH. Mr. Chairman, I think I have put in the context. If you disagree with me, I would like to hear what the disagreement is.

Chairman KERRY. Well, let me say I just want to be very careful, that is all. And the list says: the enclosed list—the letter is addressed to me. It says: the enclosed list is provided in response to your March 4 request for a list of names of individuals who, quote, probably ejected from their aircraft over Laos.

As noted in the attached memoranda from USCINCPAC, the survivability codes 1 and 2 meet the criteria you mentioned, and the list of the 53 individuals carried on the joint task force full accounting listing of individual MIA under these codes are enclosed.

Now, I see this list and a couple of names leap out at me because I have been personally reviewing some of these individual cases to understand them better. And I see, indeed, some of the names I have mentioned which are the lead names for me of potential survivors. For instance, Charles Shelton, David Hrdlicka, Gene DeBruin. I also see names here where, when I read the case history, there was no way I could conclude whether the person was captured, survived, died, or not.

So, I do not want this list to sort of represent the concept that the survivability code No. 1 automatically means these were people

we knew to be captured because some of the names leap out to me as people that I could not conclude were captured.

Ambassador GODLEY. Well, Mr. Chairman—

Chairman KERRY. But they do represent significant question marks.

Ambassador GODLEY. Mr. Chairman, is there on that list a name Townley, T-o-w-n-l-e-y? He was with Air America. Were there any Air America people on that list?

Chairman KERRY. The list does not allow me to be able to determine that. It's simply a case number. We could try to determine that, but I do not see the name that you are saying, Ambassador. I do not see it. I do see cases and names that I have read through whether I was left with a big question. It would not resolve it one way or the other. It would not have said the person was captured.

Ambassador GODLEY. The reason I am asking is more difficult, but what we're up against. This man was flying a load of ammunition over the Chinese road. He was shot at.

Vice Chairman SMITH. Well, I just want to conclude on this list, in response to Senator Kerry. I am not trying to imply or even insinuate that these people are alive today. What I am saying is that according to the Reagan report in 1989, there were 120 who probably ejected. But this list was further broken down into those that allegedly have been sighted for one reason or another outside of their aircraft.

Now, all I am saying is that list fits in with the 67, and the dates that I am talking about here—you have got a list in June 1973 of people who are listed as POWs. That is all I am saying. That is direct information. It is very important to point out.

And yet even in 1975 the list still existed. In 1975, that list still existed. There were still being carried as POWs, and the public was never told that. I mean, I am not trying to draw any other conclusions other than that. If you are carrying people as prisoners, then the public needs to know it, and they were not told that. That is all I am saying.

Chairman KERRY. Senator Smith and I certainly agree on the existence of that POW list and questions around it. But on this other list, I think we need to figure out some more information. I think Senator Kerrey is going to get back and has a couple more questions. I wanted to move—I know Secretary Richardson has an appointment that is kind of squeezing him a little bit here, and we need to move along.

Senator KERREY. Thank you, Mr. Chairman. I would like to followup with Ambassador Godley, and I will try to go through these questions rather quickly. And it may be, Mr. Chairman, because of Mr. Richardson's schedule that we will have to cut these off. And I would be glad, and I will not consider it offensive if you interrupted me. Or, not terribly offensive.

Ambassador Godley, what priority for intelligence collection did you attach to the collection of information on POWs and MIAs in Laos?

Ambassador GODLEY. Top.

Senator KERREY. Top priority. Were you ever asked whether you had sufficient resources for the collection of information on POWs in Laos, to the best of your recollection?

Ambassador GODLEY. No, not that I recall. There wasn't anything that more men could do.

Senator KERREY. Do you recall that in the mid-1970's, mid-1972, the Pacific Command for the Joint Chiefs of Staff requested permission to send additional military intelligence collection resources to Laos for the purpose of increasing collection on POW/MIAs?

Ambassador GODLEY. No. At that time, we were under the restrictions of BALPA. BALPA was the reduction of American personnel aboard in all branches, and we had to watch very carefully the number of people we had in the mission—military, state, AID, et cetera. I just cite that. We may have questioned whether more people were desirable.

Senator KERREY. The documents that are available to the committee, the JCS documents that are available to the committee, indicate that additional assistance was offered for collection of POWs and MIA data—that it was offered to you at the time and that you turned it down. Do you have a recollection of that?

Ambassador GODLEY. Numbers don't replace quality. We had quality soldiers there. We were under restrictions as to the numbers we could add. And I just assume that I was satisfied with my staff.

Senator KERREY. And you collected the data and then merely passed it on to the Defense Intelligence Agency. Is that correct? You did not actually—

Ambassador GODLEY. There just wasn't much data. The data we got principally came from the Air Force or Air America. When they lost aircraft, we would be aware of it immediately that we heard of an aircraft going down or being missing. We'd alert the friendly ground forces. We would alert what we called the American controlled aircraft, i.e. Continental and Air America. We'd do everything possible.

Senator KERREY. I guess it does not make sense to me today, and I am asking if you can recollect how, in 1972, if you did not have any data you could assume that had all the resources? And if it was your top priority, how do you assume that you not only had all the resources, but that you had plenty of quality people, and that JCS was incorrect in offering additional assistance?

Ambassador GODLEY. That was my judgment.

Senator KERREY. Your judgment based upon—

Ambassador GODLEY. My knowledge of my mission and the people that I had on board.

Senator KERREY. But if you were provided information that we had numbers in the hundreds of potential missing, and yet your own data indicated that there were few prisoners, it seems to me that particularly when JCS is offering additional assistance that the judgment might have been made that you needed some additional help.

Ambassador GODLEY. Sir, if you were in my shoes, and I offered you 20 more men, what would you do with them? We had men with the indigenous forces. They were experienced.

Senator KERREY. Well, if I am presented with a problem that says that I have hundreds of missing and we have not yet received data on actual prisoners, and the prisoner of war issue was my top

priority, I would probably say that I need some additional resources; I need some help.

That is how I would probably—it just seems intuitively that that would have been the answer unless there was—I understand jurisdictional matters, but it just seems at least to me that it would be logical to accept some additional help if it is, as I said, a top priority.

What sort of assistance was asked of the Hmong, for example, who knew the territory well? Was there a request put out to operatives in the field, and to the Hmong themselves, to assist in the collection of data and the identification of possible POWs?

Ambassador GODLEY. I'm sorry?

Senator KERREY. Was a request made of operatives in the field, and to the Hmong themselves, to assist in collecting data on POWs?

Ambassador GODLEY. I wasn't aware of any assistance offered.

Senator KERREY. I think the gentleman behind you can provide you with some information.

(Pause.)

Ambassador GODLEY. It's been brought to my attention that people in the field, the American case officers, with the indigenous forces, be they Hmong or be they Thai, had standing orders to report anything and everything they could ascertain about prisoners.

You have—let's say the Air Force tells us that airplane X is shot down, in flames, or crash-lands. What have you. No chute. What further data can you get? We would send choppers or even fixed wing—

Senator KERREY. Did you have—sorry.

Ambassador GODLEY. If we knew where that event occurred, where the plane went in. But many of the flights were unaccompanied.

Senator KERREY. Did you have a systematic method for debriefing the Hmong? Did you discuss some sort of development—the development of a system that would have enabled you to debrief the Hmong about data that—

Ambassador GODLEY. The case officers with the Hmong would do what they could. We had no system for doing that.

Senator KERREY. Why, if it was a top priority again, if they were our best source of intelligence?

Ambassador GODLEY. Senator, if you were in my shoes, what system would you establish to question?

Senator KERREY. I suggest to you, sir, that if it was my top priority I would at least consider the development of a system. I am not suggesting that I could have done it superior to you by any stretch, but if it was my top priority and the Hmong were my top source of intelligence—and I must say, Mr. Ambassador, that I am operating upon information provided the committee by former Hmong intelligence officials who worked for an individual by the name of Mr. Vang Pao.

I do not know if you have any knowledge of this individual and what he has been saying. But the information that he has been providing us indicates that during the war they were providing

subordinates with names of anywhere up to 200 downed pilots in the area. I do not know if there is anything to all of this.

I just know there are a rather large number of incidents, and it seems to me that there must have been a requirement to develop some sort of method by which to sort through all of that, given that you have got a war yourself that you are operating and lots of other things, as you indicated earlier in your testimony that you are doing.

I am not suggesting that this is the only thing you had to do, or that your job was easy. I am merely trying to respond to your own statement that it was a top priority with the question, given the amount of apparent information coming in, was there an effort made to develop a systematic method for debriefing the Hmong operatives?

Ambassador GODLEY. Well, the standard operating procedure—if Udorn or the Air Force indicated aircraft did not return from the mission, and such information that they had, and it was in an area where we had any assets, we immediately would notify the case officer in the area—do what you can. Also, we would send out our own aircraft to try to locate the wreckage, and hopefully a chute, and report immediately.

Senator KERREY. Do you have any recollection of information being provided by some of the Hmong intelligence officials about up to 200 incidences of downed pilots through 1973?

Ambassador GODLEY. Yes. I mean, there were cases, but I cannot cite you chapters and verse, where they said we saw an aircraft go down or we saw an aircraft being shot and exploding in the air.

Senator KERREY. And you would merely take each one individually and follow it to its conclusion?

Ambassador GODLEY. I wouldn't myself, but the case officers would.

Senator KERREY. Did you do targeting of those sites? Did you take a grid map, for example, and indicate where these things were being identified, where sources were coming in? When I am talking about systematic method, that is what I am describing. Even though they may have been dead-end sightings, did you attempt to identify and try to discover if there was any pattern to the sightings in that time period?

Ambassador GODLEY. I believe CIA military operation group did that, but I'm not sure. They did.

Senator KERREY. And was that a part of the data, then, that would have been provided to JCS in 1972? Would that have been a part of the information that we had at the time, or was that analysis done independently?

Ambassador GODLEY. I think it depends what sort of information it was. If it was that so-and-so saw a plane shot or so-and-so saw a plane crash, we would note it.

Senator KERREY. And that is all available to the committee—this analysis that has been done of those sightings? I mean, what I have seen that is available to the committee thus far does not seem to me to represent a very systematic effort. Nor does it reflect the declaration that it was a top, number one priority of the embassy at the time. It just does not seem to connect.

And I understand that you are saying that, well, we had sufficient resources, and that numbers do not necessarily mean quality. But with the expression of desire to offer additional personnel to assist in this effort, and given reports that I have gotten from field personnel that say that, indeed, we were short-handed not just to do this job but to do other jobs, it would seem to me that given the range of things that you had to do, that an offer to accept some additional personnel to track down these sightings would have been accepted in a rather quick fashion.

You are making the judgment, not me, and I am just making the observation of that judgment. So, Mr. Chairman, thank you.

Chairman KERRY. Thank you very much, Senator Kerrey. I would note for the record, and it is something that will explore in writing with you, Mr. Ambassador, that during 1966 to 1973, apparently North Vietnam POWs taken alive in Laos was a total of about 150.

And the question that was asked by staff and others was why it was so few. That is not a significant number when measured against the number of NVA. And, apparently, a great many of the NVA were killed before 1969.

But I gather you shared with us the intelligence that you were gathering about the difficulties of survival in some of the areas where there was not significant control. Is that correct? Was that based on knowledge, or was that based on supposition?

Ambassador GODLEY. Knowledge.

Chairman KERRY. Where did the knowledge come from?

Ambassador GODLEY. I mean, we had people who had been in Laos for many, many years. We had people who were in touch with the Hmong, with the indigenous personnel. We knew, for example, the Chinese road, and areas where it would be extremely difficult for a Caucasian to exist.

Chairman KERRY. Well, we will pursue all of that outside of the public hearings. But clearly understanding some of those difficulties is important to some of the judgments we will make, none of which clouds the fundamental questions that Senator Smith, Senator Grassley, and I, and others have been posing with respect to knowledge we had about prisoners, which is different from what survivability possibilities might exist for those we did not know to be prisoners. Those are two very distinct issues.

Again, I said we would draw an end to this panel a little while ago. Thank you very, very much for your patience, and we appreciate your cooperation with the committee.

Ambassador GODLEY. May I be excused?

Chairman KERRY. Yes, sir. Thank you very much. Thank you. If we can call the second panel? Secretary Richardson and Mr. Secord.

[Pause.]

Chairman KERRY. If we could keep the committee moving here, we have two witnesses to bring in this afternoon, in addition to this panel. I do not think this will be a very long panel, and we will try not to prolong it.

Gentlemen, before you get comfortable, if I could swear you both—Mr. Secord and Mr. Secretary, could I ask you, do you swear

to tell the truth, the whole truth, and nothing but the truth, so help you God?

General SECORD. I do.

Mr. RICHARDSON. I do.

Chairman KERRY. Mr. Secretary, if you would lead off, if you have an opening statement, and if you would just identify yourself quickly for the record, and then Mr. Secord, General Secord, if you would do the same afterwards.

Thank you.

TESTIMONY OF ELLIOT L. RICHARDSON, U.S. SECRETARY OF DEFENSE 1973

Mr. RICHARDSON. Thank you very much, Mr. Chairman and members of the committee.

Chairman KERRY. Could you pull the microphone a little closer? Thank you.

Mr. RICHARDSON. I'll get it closer.

My name is Elliot Richardson. I served as Secretary of Defense from January 29, 1973 until May 14, 1973. I do not have a prepared statement, Mr. Chairman. I would be glad to respond to the committee's questions based on the deposition I have given.

The deposition itself is largely addressed to memoranda prepared during the period when I was Secretary of Defense, particularly a memorandum to me of March 28, 1973, from then Acting Assistant Secretary of Defense for International Security Affairs Larry Eagleburger.

That memorandum was accompanied by a draft memorandum from me to Henry Kissinger as the Assistant to the President for National Security Affairs, and I promptly transmitted that second memorandum to Dr. Kissinger.

I would like to say, Mr. Chairman, that if I had been asked in advance of seeing these documents whether I remembered sending them, I would have had to say no, I did not, and I cannot honestly say, either, that now, having seen them, that they have, in the common legal phrase, quote, refreshed my recollection, unquote.

I did say in my deposition testimony, and I would say again now, that both memoranda seem to me very straightforward. I would have read the memorandum from Eagleburger and thought that this reflected, on its face, a careful assessment of the available information.

The recommendations set forth seemed to me sensible, and obviously I must have believed that because I evidently the same day that the memorandum to me is dated, sent forward the memorandum to Dr. Kissinger, and that would, I think, help to account for the fact that I do not specifically recall having done it.

I would note that both memoranda are premised on the factual proposition that there was good reason to believe that there were still American men who were being held prisoner in Laos. That is, that there were missing in action who were still alive, and all of the recommendations in the memorandum to Dr. Kissinger are directed toward that assumption.

It does appear on the face of both memoranda that we recognize that the information was not completely definitive. The phrase is

used at one point, "there is reason to believe." This is in the recommendations: paragraph (3), "The LPF should be told that we have reason to believe they hold additional U.S. prisoners, and we demand their immediate release as well as an accounting and information on all of those who may have died."

Paragraph (e) says, as a close, that there are other—or really it's not paragraph (e), it's the prefatory sentence, for two additional or possible actions: but these tougher actions should only be contemplated if we are strongly convinced that the Pathet Lao hold POWs.

This suggests on the face of it that the series of actions called for, (A) through (E), are based on "reason to believe." The tougher actions contemplated, to quote the memorandum, would have been taken—

Chairman KERRY. Mr. Secretary, you lost me on the last part. Let me come back to this. I followed you through the last paragraph, and this memorandum will be placed in the record at this time. This is a memorandum of March 28.

[The information referred to follows:]

*231.2 sent to the President for
Talk Sec. of Affairs* 28 MAR 1973

MEMORANDUM FOR THE ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS

SUBJECT: US POW/MIA Personnel in Laos

I am concerned over the situation in Laos regarding our men who are still being held prisoner or missing. To date, there has been no accounting of US personnel missing in Laos other than the 1 February 1973 list of ten who were probably all captured in Laos by the North Vietnamese rather than the Pathet Lao.

As you know, there are over 350 US personnel listed by DIA as missing or captured in Laos. The 1 February list of ten amounts to only a 2.5% accounting; whereas the North Vietnamese have accounted for 45% and the PRG has accounted for 20% of the people we have carried as missing or captured in their respective areas.

I recommend the President consider the following diplomatic track in order to gain some accounting of our men held/missing in Laos:

A. After the recovery of the last prisoners from NVN, Hanoi should be advised unequivocally that we still hold them responsible for the return of all POWs being held in Indochina. And in this regard, any further mine sweeping activity as well as all future US reconstruction assistance should be described as wholly dependent upon the accounting for and/or release of US prisoners being held in Laos. Once again, NVN should be clearly informed that an accounting for ten men out of a total of more than 350 is considered unacceptable.

B. In the meantime (about 28 March), a strong demarche should be made to the ranking LPF representative in Vientiane by the US Ambassador personally. This initiative should plainly and forcefully assert that the U.S. will no longer play games with the POW issue in Laos. The LPF should be told that we know they hold US prisoners, and we demand their immediate release as well as an accounting and information on all those who may have died. Finally, the LPF should be advised that failure to provide a satisfactory answer could result in direct United States actions.

C. Simultaneous with our representations to the LPF, the US Ambassador to Laos should also ask the USSR, PRC, NVN, French, British and ICC senior representatives to Vientiane to use their good offices with the LPF in order to avoid a serious situation.

(621)

D. Shortly after 28 March, assuming the LPF have not responded favorably, intensive and obvious tactical air reconnaissance of North and South Laos should commence. Additionally, the movement of a new carrier task force into the waters off Vietnam should be publicly announced.

E. Concomitant with the foregoing, the LPF and NVN should be privately advised that the Thai Volunteer Forces now in Laos will not be removed until there is a satisfactory resolution of the POW issue.

F. As an accompanying measure, Ambassador Godley should be instructed to "lean hard" on Souvanna Phouma and tell him to let the LPF know that political concessions in the new Provisional Government of National Union (especially as regards LPF appointments to cabinet posts) will be next to impossible without resolving the POW question.

E.L.R.
3/28/73

Mr. RICHARDSON. At the bottom, recommendations (A) through (E) are proposed be pursued right away, and (A) through (E) are all contained in my memorandum.

Chairman KERRY. That is the Eagleburger memorandum.

Mr. RICHARDSON. Yes. I'm looking at the Eagleburger memorandum.

Chairman KERRY. The memorandum that you sent to the President on March 28 is a two-pager.

Mr. RICHARDSON. Yes, but my memorandum to Kissinger leaves out the recommendation that, as a last step, for example, U.S. air strikes and Lao and Thai irregular offensive operations could be resumed in Laos.

Chairman KERRY. Correct. This is your memorandum.

Mr. RICHARDSON. And the point is that these more forceful steps are suggested here only on the basis that the premise on which we are acting changed from "reason to believe," as noted in (B), and a later point at which we are "reasonably strongly convinced."

I only point that out so far as it makes clear on the face of the memorandum that there was a distinction to be recognized at that time as to the firmness and validity of the information that we had.

Chairman KERRY. Well, let me, while we are there—and we can try to speed up the process here, because this is the central area of inquiry that we asked you to be here for—let me just quickly for the record ascertain the date at which you arrived at Defense as Secretary. This was a time when you were wearing most of the hats in Government, if I recall.

Mr. RICHARDSON. There was certainly a period in which I went quickly from—

Chairman KERRY. Place to place.

Mr. RICHARDSON. One to another. I became Secretary of Defense—let me see, here—on January 30, 1973, and I served until May 24, 1973.

Chairman KERRY. Now, what is interesting to me is that in the memorandum—we are going to put both memoranda in the record at this time, one being the memorandum from Acting Assistant Secretary Eagleburger, which I gather, General Secord, you also had a role in. You helped draft that originally, am I correct?

General SECORD. Yes, sir.

[The information referred to follows:]

08/18/81 18:20

WUOL
4-28

ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

INTERNATIONAL
SECURITY AFFAIRS

In reply refer to:
1-35174/73

MEMORANDUM FOR THE SECRETARY OF DEFENSE

SUBJECT: U.S. POW/MIA Personnel in Laos - ACTION MEMORANDUM

REF: Your 13 Mar 73 query on Laos POWs (attached)

On 1 February 1973, North Vietnam (NVN) released the names of ten POWs who were captured in Laos. NVN claimed that these ten people were prisoners of the Pathet Lao, but DIA analysts indicate these individuals were actually captured by the North Vietnamese in Laos. The ten POWs identified consist of nine Americans (six USAF, one USN, two civilians) and one Canadian. The evidence indicates that most, if not all, of the ten are currently being held in Hanoi.

DIA lists approximately 350 U.S. military and civilians as missing or captured in Laos. Therefore, the Lao Patriotic Front (LPF) list of ten POWs constitutes only a 2.5% accounting. In contrast, the NVN list represents 45% and the PRG list represents 20% of the POW/MIA personnel carried on our lists in these respective areas. There is an obvious lack of reporting on the part of the LPF. Because of the foregoing statistics and analysis of the conditions under which our people have been lost, DIA concludes that the LPF may hold a number of unidentified U.S. POWs although we cannot accurately judge how many. The American Embassy, Vientiane, agrees with this judgment.

Several diplomatic moves have been made recently in an attempt to get an accounting and release of American prisoners being held in Laos. On 10 March 1973, the LPF Delegation chairman in Vientiane informed us that recent U.S. démarches regarding prisoners in Laos had been conveyed to Souphannouvong, the Lao communist chief, personally. No other information was made available.

On 15 March the Secretary of State instructed Ambassador Godley to "...single out Soviet Ambassador for the full treatment..." regarding the lack of progress in Vientiane on political and POW matters. Godley was also instructed to inform the Soviet Ambassador that we "...continue to hold North Vietnam to its commitments on releasing all U.S. POWs in Laos by 28 March and will not tolerate any delays." No communist response to this line of action has been noted as yet.

(624)

On 22 March 1973, the United States informed NVN and the PRG that the U.S. would "...complete withdrawal of its military forces from South Vietnam in accordance with the terms of the agreement and coincident with the release of all repeat all American prisoners held throughout Indochina." This statement was aimed directly at securing release of all U.S. prisoners held by the Pathet Lao.

On 22 March Ambassador Godley addressed the Laos POW/MIA question at length in Vientiane 2139 (attached). Godley separates the 1 February list of ten prisoners from the issue of accounting for the remaining POW/MIA in Laos. The Ambassador states that the LPF "...just has not focused on the PW repatriation and accounting problem until very recently..." Godley concludes by recommending that we concentrate on helping the RLG get an acceptable military protocol to the Laos cease-fire agreement approved by the LPF. In this way the Ambassador is hopeful that we can eventually gain LPF cooperation in the POW/MIA matter. However, Godley also states that he is having great difficulties in influencing the RLG negotiators; and he states we must expect many nonconcurrences from the LPF.

On 23 March, the U.S. Delegation to the Four-Party Joint Military Commission (FPJMC) was instructed by Washington to reaffirm our negotiating stance. General Woodward was instructed to seek a private meeting with the NVN representative and inform him that the U.S. must have assurances that the prisoners on the 1 February list will be released by 28 March. Given these assurances, private or otherwise, we will complete our troop withdrawals. This 23 March guidance to the field also indicates that "...we intend to pursue the question of other U.S. personnel missing or captured in Laos following the release of the men on the 1 February list."

To review the bidding to date, the U.S. is prepared to accept release of the ten men on the 1 February list along with the other U.S. personnel being held in NVN as the final condition for complete U.S. troop withdrawal. However, there has been no accounting of U.S. personnel MIA in Laos other than the 1 February list of ten who were probably all captured in Laos by the NVA rather than the Pathet Lao. Hence, assuming all the prisoners currently being held in NVN are released by 28 March, we still have the Laos MIA question remaining unresolved. Additionally, Ambassador Godley proposes that we rely upon the yet-to-be developed and approved Lao Military Protocol as a means of gaining satisfaction on this issue. And finally, Ambassador Godley does not discuss Hanoi's influence or control of the LPF on this issue.

From the foregoing, there appears to be need for a well-orchestrated plan for solving the problem of our Laos POWs and MIAs. Therefore, I am recommending below a series of diplomatic moves aimed at gaining a proper accounting of our men lost in Laos. You may wish to pass along to the President part or all of the following diplomatic track:

A. After the recovery of the last prisoners from NVN, Hanoi should be advised unequivocally that we still hold them responsible for the return of all POWs being held in Indochina. And in this regard, any further mine sweeping activity as well as all future U.S. reconstruction assistance should be described as wholly dependent upon the accounting for and or release of U.S. prisoners being held in Laos. Once again, NVN should be clearly informed that an accounting for ten men out of a total of more than 350 is considered unacceptable.

B. In the meantime (just after 28 March), a strong demarche should be made to the ranking LPF representative in Vientiane by the U.S. Ambassador personally. This initiative should plainly and forcefully assert that the U.S. will no longer play games with the POW issue in Laos. The LPF should be told that we have reason to believe they hold additional U.S. prisoners, and we demand their immediate release as well as an accounting and information on all those who may have died. Finally, the LPF should be advised that failure to provide a satisfactory answer could result in appropriate United States actions.

C. Simultaneous with our representations to the LPF, the U.S. Ambassador to Laos should also ask the USSR, PRC, NVN, French, British and ICC senior representatives to Vientiane to use their good offices with the LPF in order to avoid a serious situation.

D. Shortly after 28 March, assuming the LPF have not responded favorably, intensive and obvious tactical air reconnaissance of North and South Laos should commence. Additionally, the movement of a new carrier task force into the waters off Vietnam should be publicly announced.

E. Concomitant with the foregoing, the LPF and NVN should be privately advised that the Thai Volunteer Forces now in Laos will not be removed until there is a satisfactory resolution of the POW issue.

Other moves that may be worthy of consideration are listed below. They should only be contemplated if we are reasonably strongly convinced that the Pathet Lao hold POWs.

A. Ambassador Godley could be instructed to "lean hard" on Souvanna Phouma and tell him to let the LPF know that political concessions in the new Provisional Government of National Union (especially as regards LPF appointments to cabinet posts) will be next to impossible without resolving the POW question.

B. As a last step, U.S. air strikes and Lao and Thai irregular offensive operations could be resumed in Laos in order to force the release of our prisoners in Laos.

The foregoing recommended diplomatic/military moves would represent a considerable toughening of the U.S. stance regarding our POWs being held in Laos. Such a line is even harder to take without a clear picture as to how many U.S. personnel are actually being held in Laos. The intelligence data available is voluminous but imprecise. However, the evidence indicates that the NVN/Pathet Lao forces have captured U.S. personnel since 1964, and the LPF have provided no prisoner or casualty data at all other than the ten names listed on 1 February. Therefore, the hard negotiating track outlined in steps A through E above, and possibly even the optional steps A and B, seems clearly justified. Finally, it is recognized that this is a very delicate situation, and the application of any one or all of the above actions cannot assure success--there is, of course, little physical risk associated with options A through E.

If you approve of the above listed courses of action, I recommend you sign the attached memorandum for Dr. Kissinger.

Lawrence S. Eagleburger
Acting Assistant Secretary

Attachments: (3)
SecDef query dtd 13 Mar
AmEmbassy Vientiane msg 2139
Proposed memo to Dr. Kissinger

No coordination required.

rep: LTC Secord/1s/AD/23Mar73/53164
1st: Orig #1 addrs
b1 #2 RC
yelo #3 AD
lwh #4 ISA/S

Prepared by RADH Bigley, X54175
& LTC Secord, X53164

Chairman KERRY. In the memorandum that you sent based on that memorandum, Mr. Secretary, the one you sent to the Assistant to the President for National Security Affairs, you said to him, quote, I am concerned over the situation in Laos regarding our men who are still being held prisoner or missing.

You then throw out the statistics of the 350 personnel listed as missing or captured—only 2.5 percent—and you measure that against the North Vietnamese and the Viet Cong, as they were known, and the percentage that they returned, 45 percent for North Vietnam, 20 percent for the PRG.

You recommend a specific diplomatic track to gain accounting of the men held/missing, and you point out that we should hold them accountable for all POWs being held in Indochina, and you assert the following:

This initiative should forcefully and plainly assert that the U.S. will no longer play games with the POW issue in Laos. The LPF should be told that we know they hold U.S. prisoners and we demand their immediate release, as well as an accounting and information on all those who may have died.

That is a very definitive statement for a Secretary of Defense to send to the National Security Advisor recommending policy.

Mr. RICHARDSON. Yes. Well, I think that simply to address the distinctions in language used here, we had reason to believe that there were additional POWs in the hands of the Laotians. We were not completely certain, and we were certainly not—did not have definitive information as to the numbers.

As you said, my recommendations to the President through the National Security Advisor were that we should follow a diplomatic track as proposed. The pursuit of these steps might run into a blank wall, and if at that stage we were even more convinced of the truth that these prisoners were being held, we should then even resume bombing.

Now, on the diplomatic track itself we obviously would not go to the Pathet Lao and exhibit doubt about the information we had. In order to elicit the appropriate response, we would—whoever went to them would say, we have this information. What about it?

So what you've read, really, is the language addressed to the instruction of the person carrying out this diplomatic initiative.

Chairman KERRY. I understand the distinction that you are drawing. The trouble I am having is measuring that against the other information that was available at that time, as well as measuring it against the information even on which your recommendation was based and the information that was then moving around within the Pentagon.

People ranging from Admiral Moorer to General Tighe, General Vessey, who has subsequently testified based on information he has uncovered, have all asserted that they had very strong reason to believe there were people still POW.

Now, if you look beyond the statement of belief, there is in fact evidence at that time that was very compelling that people were POW—i.e., you knew they were captured, you had seen a photograph of them captured, intelligence had heard from ralliers of the Lao that so-and-so was being held somewhere, and as of this demar-

kation point of January, February, March, et cetera, nothing else altered that, correct?

Mr. RICHARDSON. Correct.

Chairman KERRY. So the last information in the hands of the U.S. Government is that David Hrdlicka was a prisoner of war, or that Richard Shelton was a prisoner of war, correct?

Mr. RICHARDSON. Correct.

Chairman KERRY. So there is a technical correctness to saying we did not know if they were alive, because we did not, I agree, but everything which we knew, and everything on which we should have acted, was no different from everybody else on a list who did come home, correct?

Mr. RICHARDSON. Correct.

Chairman KERRY. Did we act?

Mr. RICHARDSON. I agree, Mr. Chairman, that your sequence of questions leads to the key question.

I don't believe that a degree of uncertainty as to the numbers or the firmness of the information, given the totality of the information, should have affected what we did up to at least the resumption of bombing or the use of force, and the recommendations in this memorandum represent in substance the most effective combination of measures that Larry Eagleburger and General Secord and Admiral Bigley and those of us who reviewed this memorandum could come up with.

So any disagreement as to the degree of certainty one way or another as to whether or not the prisoners were actually being held at that time was immaterial to the conclusion that the information was good enough so that something should have been done. The something was what is proposed here.

So the next question is, what happened then? Did we do these things and, if we did, what was the response, what did we learn, and so on. As to that, I have to say that I don't know.

Chairman KERRY. You would agree with me, Mr. Secretary, there is a distinction between someone listed as POW and someone listed as MIA?

Mr. RICHARDSON. Definitely.

Chairman KERRY. And you would agree with me, then, that the people listed as MIA, some of them did not come home, correct—excuse me, people listed as POW, some did not come home, correct?

Mr. RICHARDSON. Yes.

Chairman KERRY. Therefore, a statement that all POW are home is also incorrect, is it not?

Mr. RICHARDSON. Yes. This is a colloquy. I don't know anything about it. You may ask me in due course, did I see the President's statement, or did he know what he was going to say? I don't recall having done so, and I would be offering only conjecture, really, as to why he said it.

He could have rationalized it, I suppose, on the basis that all the ones we knew of had been accounted for.

Chairman KERRY. Well, that would have raised some problems. I mean, in the context of the times.

If you are saying, we have an agreement that gets all of our prisoners back and we have got iron-clad guarantees, but all of a sudden in the middle of this thing you are posed with the problem

of explaining, we do not have them all back, you have to explain that you do not have iron-clad guarantees and you also have to explain something different to the American people, do you not?

Mr. RICHARDSON. But I would say, Mr. Chairman, really the key question here is what was done or not, and if it was not done, why not?

I could imagine the conclusion that we're doing everything we can, and given the uncertainties, let's not hold out new hopes. If we're doing everything we can and do indeed confirm our intelligence that they have prisoners, we locate them, and initiate steps to get them, then we'll tell the American people, but until then—that's a possible rationale, at least, but I cannot honestly tell you that I know that anybody actually went through that process.

Chairman KERRY. Looking through this, obviously retrospectively, but looking at it as we're trying to look at it and looking at it as the American people are looking at it 20 years later, unfortunately, would you say that the record suggests that the American people and certainly the families were not leveled with with respect to this?

Mr. RICHARDSON. I would say that information on the face of it was withheld from them, and one would have to use some rationale for doing that—that is, for withholding it.

I know from what I've read about and what I've seen before this committee, the suggestion has been made that the information was withheld, the existence of the prisoners was denied because we didn't want to stir things up. We didn't think we had the effective means of doing anything about it, and so let's proceed, therefore, allowing everybody to believe the war is over, the prisoner of war issue is over, and let's go on about the business of the country.

A more benign explanation would be yes, we do have some information. We're trying to pin it down. We've launched measures that are as effective as we can think of, pro tem, to do that, so therefore let's not tell these families in the specific cases where uncertainty still exists that we're doing this. We'll tell them if and when it works, if it's successful. That may not have been—and then you could say, well, besides, as an additional make-weight for that result, you throw in the first consideration.

I don't honestly—I mean, this is—as far as I'm concerned, I'm only offering the kind of commentary on the record that anyone who had nothing to do with it could offer, just reading it, because I really don't know any more.

Chairman KERRY. I understand that, but as a former Secretary of Defense, Attorney General—

Mr. RICHARDSON. Politician and bureaucrat in many roles, yes.

Chairman KERRY. Well, I never wanted to call you a bureaucrat, Mr. Secretary.

Mr. RICHARDSON. I have always been proud of being a bureaucrat, as a matter of fact, as well as being a politician.

Chairman KERRY. But I think your observations on this have a particular weight.

Mr. RICHARDSON. But I can imagine how politicians and bureaucrats, in such contexts, could well react.

Chairman KERRY. But in this case you were there and you were in the middle of these decisions. Now you also had a very short time to get up to speed on it, I would imagine.

Mr. RICHARDSON. I was getting up to speed on a whole lot of things, because at once I was concerned about warning time in NATO, I was concerned about bringing in—when I came to the Department of Defense my paramount goals were to restructure the whole planning process so that we could explain to the American people why we had the force levels, or why we sought from Congress the force level we sought. In short, yes, there was a tremendous amount of pressure involved in trying to get up to speed.

Chairman KERRY. Let me cede to my colleague, Senator Smith, for his round. We seem to be on our own here for a period, and then Senator Robb.

Vice Chairman SMITH. Thank you very much, Mr. Chairman. General Secord, on February 2, President Nixon said in a message which he delivered to North Vietnam via Colonel Guay:

The list of American prisoners held in Laos which was presented in Paris on February 1 is unsatisfactory. U.S. records show there are 317 American military men unaccounted for in Laos, and it is inconceivable that only 10 of those men would be held prisoner in Laos. And there can be no doubt, therefore, that the implementation of any undertaking is related to the satisfactory resolution of this problem.

And it goes on to say that it would impair the mission of Secretary Kissinger.

In your deposition, you went a little bit stronger than inconceivable, even, and said absurd, it was absurd that that list would be accepted and that essentially the people in DOD knew that.

I am going to give you the floor here. What in the world was going on? You drafted the memo for Secretary Richardson. And in this March 23-28 period, tell us, tell us what was going on?

TESTIMONY OF MAJOR GENERAL RICHARD SECORD, LAOS CHIEF OF AIR, CENTRAL INTELLIGENCE AGENCY, 1966-1968; LAOS DESK OFFICER, DEFENSE DEPARTMENT, 1972-1975

General SECORD. Yes, sir. Well first let me just say for the record that I had a lot of years of experience with Laotian matters, as I think most of the committee knows. I served in Central Intelligence Agency in the field in Laos for 1966, 1967, and 1968. And I was back there again, briefly, in 1969. And then I was the Laos desk officer in the Office of the Secretary of Defense, International Security Affairs, for a while in 1972. And then by the time you're talking about here, I guess I was the head of the Southeast Asia Branch, having been promoted to Colonel.

So I served as a middle level officer during the time that you are focusing on here. And I wish I could take credit for that memorandum, because I think it's a good one, but it only represented—it was the input of a number of officers who were working on this matter. And a memorandum of this nature to the Secretary of Defense himself would have had to have been coordinated, as a minimum, with the Chairman of the Joint Chiefs, and probably all the Chiefs. Roger Shields undoubtedly chopped on this message, or co-

ordinated I should say. And probably a number of other DIA and others.

So I was an action officer and it was my job—I'm sure I was told by probably Assistant Secretary Eagleburger, after a SECDEF staff meeting would be my guess. When this was first showed to me by your staff I didn't remember it. You know, there was a blizzard of memoranda.

And then when I read it I did remember it, but it was unusual for us in my section to draft POW-type correspondence, because we had an office for POW affairs. I believe that my office was assigned the primary drafting responsibility in this case because this memorandum was kind of operational in nature rather than just an accounting kind of report.

Because, after all, it recommended a diplomatic track and a military track. Which we knew, of course—we could read the papers too, those of us who drafted it—that the force option would be one that would be hard for the decisionmakers to take given the environment that existed in the country at that time. Nonetheless, we thought it was feasible. So I guess I part company with some who have testified who said that they did not think that the force option was even remotely available. We obviously felt it was.

But what was going on with respect to the POWs is we were tracking as carefully as we could all the intelligence information available on POWs, especially after it became clear that there was going to be a Paris Accord. Because we knew this would—knowing the Vietnamese as we knew them, we knew this was going to be a really tough—a tough matter.

We also knew that the notion that there was a Pathet Lao, as Ambassador Godley said—you know they existed but they didn't have any power. The North Vietnamese army had them completely in their control.

Vice Chairman SMITH. Can I just interrupt.

General SECORD. Yes.

Vice Chairman SMITH. I do not want to interrupt your story at all, I just want to ask you a point right there. So based on your tracking, then, there were confirmed U.S. POWs in Laos during the war.

General SECORD. Indeed. You've mentioned some of their names earlier this morning.

Vice Chairman SMITH. Do you have any idea how many?

General SECORD. No, sir, I can't remember. But there were a number of names that we knew with—what do you know for sure. I mean with reasonable certitude we knew.

For instance, the famous case of Hrdlicka and two others. I had personal knowledge of that because I was involved in an abortive attempt to rescue those guys back in late 1966 or 1967, I think it was. You would have to go to CIA to get all those cables, but there's a raft of cables on that. We knew that they existed alive because we had an agent inside. We knew their names, we knew where they were.

Vice Chairman SMITH. And I just want—again for the record, and again I apologize for interrupting your flow there. When you say POWs in Laos, a number, you are obviously referring to a larger number than the nine.

General SECORD. In addition to those nine.

Vice Chairman SMITH. Well in addition to those nine.

General SECORD. Yes, sir.

Vice Chairman SMITH. And did all of those people come home that you were tracking?

General SECORD. None of them, that I know of, have been located or even heard of since the Paris Accords. But we did know to, I think, a reasonable level of certitude, that there were more, hence the memorandum.

Vice Chairman SMITH. Good intelligence. I mean Secretary Schlesinger said excellent intelligence. Do you concur with that conclusion, good intelligence?

General SECORD. He was Director of Central Intelligence. I was just a low level officer. Of course it was good intelligence. Intelligence, as we all know here, is a matter of relativity and it's a matter of judgment, and you might read one intelligence report differently than I might read it.

But there was just a mountain of intelligence on all of this. And earlier somebody was asking was there a systematic method of tracking this kind of data in Laos. Oh, yes, there was, there was a very systematic method.

Vice Chairman SMITH. Let me just ask for your comment, then, on—if you have knowledge, I would appreciate the direct knowledge; if you have an opinion, then state it as an opinion—as to why this data base was apparently looked at differently as we came down to this period of March 28 through April 15, in that period of time when President Nixon made his statement, Mr. Shields made his statement?

What happened differently? Was there something there that we are missing that caused this change in analysis of the intelligence? Or do you believe that there were people there after Operation Homecoming, based on what you knew?

General SECORD. Well, yes, of course I believe there were people after Operation Homecoming. This memorandum was written contemporaneously with—

Vice Chairman SMITH. Just specifically tell me why you believe that. I mean if it is based on solid evidence, tell me what you had, why did you believe that?

General SECORD. Because the Central Intelligence Agency, aided by the Air Force in particular, the air attache organization in Laos—which, by the way, was very extensive. It wasn't one little office; it was a very large organization with representatives and detachments in every part of Laos, all five provinces, all five military regions.

These two organizations, principally operating together, kept extensive records as we were losing our aircraft, and we lost a lot of aircraft, as you know. And all the data that could be collected was collected immediately. It was put into the system. It was reported at least once a day by a situation report to headquarters, Central Intelligence Agency. And the attache was reporting, of course, to DIA.

And so we didn't have the capability to do a sophisticated compilation and tracking in the field, and so this stuff was reported to MACV, MACVSOG, which is an organization I haven't heard men-

tioned today, but they had the responsibility, primarily, as you know, for mounting rescue operations and also for tracking. This data was reported to CINPAC, it was reported to headquarters CIA, DIA, the world. And so they, in different organizations back here in Washington and other headquarters, kept very close track of these raw data as we collected it, and a picture starts to emerge.

We in our headquarters when I was in CIA in Udorn, which was the base where we controlled all paramilitary operations, kept track of this ourselves.

Chairman KERRY. Could I interrupt your testimony just for a minute, and I apologize to my vice chairman, I know that is not helpful. But Secretary Richardson did have to go at 2 o'clock and he stayed a little later. If I could ask if colleagues have quick questions to pose to Secretary Richardson, and then we will return immediately to Senator Smith to finish up with General Secord.

Are there any questions at this point? Yes, Senator Robb.

STATEMENT OF HON. CHARLES S. ROBB, U.S. SENATOR FROM VIRGINIA

Senator ROBB. Thank you, Mr. Chairman, and I apologize for not being able to attend all of the previous part of today's hearing, I had some unavoidable conflicts.

Mr. Secretary, before you depart, the staff has brought to my attention a couple of newspaper articles that relate to that period and I would just like to read a couple of comments, if I may, from them, and just ask you brief questions so that you might be able to clear up any possible misunderstanding.

The first one is not all that relevant, I guess. There is one from the Washington Post from March 20, 1973. The article is entitled Vietcong Plan to Release Last Prisoners by Sunday, but at the conclusion of the article it says: Richardson said, however, that the Pentagon still hoped that some of the 1,326 men listed as missing would be found. And he reiterated Defense Department plans to set up a search center in Thailand and pursue, quote, every bit of evidence, close quote, on the trail of the missing servicemen.

Then in an article in the Washington Post on March 30 that was entitled POWs Nightmarish Ordeal, on the continuation of the article on page 13 in Section A: Meanwhile, Secretary of Defense Elliot L. Richardson pledged yesterday that the search for the 1,325 men still missing in Southeast Asia, quote, will be vigorously pursued.

And then finally there is an article from the Washington Post on what would have been May 27, 1973. The article itself begins: Mother still hopes for MIA; for her it's the second time around. And in the concluding part of the article it says Former Defense Secretary Elliot L. Richardson has said that returned POWs, quote, have been able to provide quite specific information about many of those who have been carried as missing in action. But almost in every instance, it is because they have reason to know that the individual died in the crash of the plane or otherwise.

Richardson added, however, that, quote, while passage of time tends to make it less probable that an individual be found, we plan to carry out as thorough efforts as possible to run down every bit of

evidence as to where they may be, close quote. He said the effort applies particularly to Laos where only 10 POWs were released.

It goes on: The secretary said in March that, quote, we've had some indications, but very thin, of the possibility that there may be others, paren, in Laos. These are not substantial enough to be confident of. Last month Richardson added that, quote, we know of no POWs, no individual human being by name who is being held. He said hope about additional prisoners in Laos, quote, rests almost entirely on the fact that such a relatively small proportion of the missing in action in Laos turned up on any list or were released.

The question that relates to that information I guess is to the degree of follow up that took place during that particular period of time. And, Mr. Secretary, if you gave that in your opening comments, I can certainly glean that from the record. But with respect to pursuing every possible avenue, whatever the case may be, could you just describe briefly the kinds of activity that were carried out.

And then if I may, just to get the other question just generally on the table, if you could give us some sense of how important the question of POWs and MIAs was after the Paris Peace Accords were actually signed, in terms of the general priority that they received, not only within your own department but elsewhere in Government, during this particular time frame that is covered by these articles and where most of the attention by the committee has focused.

If you could describe what you recall of that period during that time frame, it would be very helpful.

Mr. RICHARDSON. Thank you, Senator Robb. First let me say, the only thing I said on this point before you arrived was that I think it is the key question. What really was done to follow up the intelligence we had, whatever the degree of certainty or uncertainty.

And I have to say that I really do not have any clear recollection or knowledge of what the follow up was.

Senator ROBB. Mr. Secretary, do you have knowledge, though, that very specific actions that would add general credibility to that statement were indeed carried out, though without your specific knowledge?

Mr. RICHARDSON. I know that I sent the memorandum which you've no doubt seen, to the then assistant to the President, Henry Kissinger, outlining actions that I thought should have been taken. And no doubt those quotes that you found attributed to me were based on my knowledge that I had made these recommendations.

We had an office which was originally under Roger Shields, and then some time later, I think in the latter part of April, that office itself was dismantled. There was less to do, but still enough so that the memorandum which came from Eagleburger recommending this procedural step also outlined the continuing functions that would be pursued in attempting to do the things that are referred to in those articles.

The process went forward, but I cannot give you any detailed recollections of exactly what was being done. I checked the date—I say this to you, Senator, Mr. Chairman, and other members of the committee—on which I was called by then Secretary of State Rogers, saying the President wanted to talk to me about becoming attorney general. That date turns out to have been April 28.

So that left a month between the recommendations made in my memorandum to Dr. Kissinger and the period in which the other problems I had were considerably complicated. But I do think the question of what the follow up was is at least as important a question as how good the intelligence was.

Senator ROBB. I guess the question that you have posited yourself—without specific knowledge, would you characterize your current recollection of what you believed to be the situation at that time as a good faith effort to follow through or a less than good faith effort to follow through or a spotty follow through?

Mr. RICHARDSON. I understand what you're saying. I'm sure that my assumption was that the things that I had proposed or, rather, endorsed and forwarded, were being done. I think all of us understand the kinds of things that stick in the mind and those that don't. The things that proceed in a more or less regular manner tend not to stick in one's mind. But if somebody tries to get you to do something you think is wrong, or to undercut what you think is right, you tend to remember it.

And I certainly do not remember anyone saying we've got to back off this stuff about there being POWs and so on. The very quotes you read suggest that I had no reservations about the need for this kind of follow through. And I don't have—I certainly don't have any recollection of anything happening later than the dates of those quotes that would have changed my attitude or my understanding of what was being done.

Senator ROBB. Mr. Secretary, the second part of that question had to do with a general sense of priorities, if you will. The degree of importance which the key participants at this particular period of our history attached to resolving the POW and MIA question following the signing of the Paris Peace Accords. Would you comment on that, during that particular period?

Mr. RICHARDSON. Good question too. I was struck by what General Secord said with respect to his own view as to the feasibility of military action. It occurred to me at that moment that it's well to have in mind the distinction between the military feasibility of the action and the political feasibility of it. And while I do not recall, and, indeed, I am certain I did not participate—well, certain is too strong, but I think it's very unlikely because I probably would have remembered participating in any discussion with regard to whether or not to invoke military means.

But clearly that would have been a very tough call in the circumstances, and I query what the congressional response would have been. But I think if that question had arisen, I can imagine listening with considerable respect to those who said no, we better—we better hold off, we better keep the pressure on in other ways.

Senator ROBB. Would it be fair to characterize the general feeling, then, as I guess you might describe it as political pragmatism or a recognition of the political constraints through which any other course of action might have been filtered?

Mr. RICHARDSON. I'm speaking hypothetically, Senator Robb. Political pragmatism always prevails, it's just a question of how the relative balance of consideration works out. The question of politi-

cal pragmatism—and I don't mean to—I do not use the word pragmatism pejoratively.

The question is one of what the public will support, what Congress would support in the circumstances, what the international political costs are of a new use of force. And, indeed, I don't know exactly when the vote taken by Congress was, but it was not long after that that Congress specifically prohibited the use of force for this or any other purpose having to do with Vietnam.

Senator ROBB. Mr. Secretary, I think most of us who recall back to that period certainly remember the kind of constraints and the general influences that you allude to. I guess the only question I would ask is in your judgment were there any significant, viable opportunities lost because of concerns about the political constraints of exercising any of those options?

Mr. RICHARDSON. All I can say is that it's possible that that was so, but I don't know.

Senator ROBB. You do not have any recollection of any specific alternative that might have been offered during that period that was specifically rejected because of the lack of will, as evidenced by prior actions of Congress, the people, the editorial community, and others.

Mr. RICHARDSON. No, I do not.

Senator ROBB. Thank you, Mr. Secretary, thank you, Mr. Chairman.

Chairman KERRY. Thank you, Senator Robb.

Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman. Mr. Secretary, we appreciate your patience here today. I think you played an important role in this scenario, and I appreciate you taking the additional time. Just following along the lines of what Senator Robb was asking you, do you believe that it would have been possible to resume the bombing given the political circumstances at the time?

Mr. RICHARDSON. Well let me say before I answer the question, Senator McCain, that somebody used the word euphoria earlier today with respect to the feeling of the Nation. And those of us here in Washington and in the Government—when you and your fellow prisoners of war returned, it was a tremendously, to me, moving and exciting moment. I had the opportunity then to talk with many of you, and it was an indelible experience.

I think that this feeling, very broadly shared, may have had something to do with the whole feeling that peace had been achieved, the prisoners were home, it was over. It had been truly a nightmare. I don't know whether you watched the PBS program on LBJ last night. This really brought home how much of a nightmare it had been in a domestic sense.

All I can say is that it would have been a very tough call, when the North Vietnamese in effect abrogated the whole agreement by re-invading or invading South Vietnam. Then surely had the political—had it been politically feasible, bombing and, I think, other military responses should have been initiated.

Senator MCCAIN. Thank you.

Mr. RICHARDSON. Whether one would have done it in the case of information about prisoners which seemed firm, I'm not sure. I think if I had been involved at that time, I would have argued for

some use of force. After all, you don't have to restart the whole war to authorize some air strikes as a way of conveying that we meant business. But those are tough calls, as you know, and I don't know what I would have said had I participated in such a discussion.

Senator McCAIN. Thank you, Mr. Secretary. You may have partially answered my next question, but I would ask you to speculate. Let us try and at least set this scene a little bit with the evidence that we have received so far concerning the Laotian situation.

Far fewer POWs were returned from Laos than we had anticipated. We get that continuously in testimony from senior ranking officials, including the panel before you. There was some evidence—and I hate to get into semantics again, but there may have been indications that we had reports that some Americans were kept in certain areas such as Sam Neua, even to the point where a recommendation was sent through you to resume—to exercise various options because this situation was viewed to be of that import, or that at least circumstantial evidence might lead one to believe that there was an extreme likelihood that all of the POWs had not been returned.

Then that memo that specifically we are discussing went through you to Secretary Eagleburger and on up the chain. But then basically after an accumulation of at least circumstantial evidence that Americans may have been left alive in Laos, from my following of this scenario, nothing happened, no action was taken on the part of the United States Government that I have seen a record of yet.

I would ask for your speculation as to why that scenario played out as it apparently did.

Mr. RICHARDSON. I couldn't explain it all. I can't even—

Senator McCAIN. I was purely asking for your speculation. I do not think any of us can explain it.

Mr. RICHARDSON. Yes, and I understand. I can't even give you a conjectural explanation as to the failure to follow up the recommendations in my memorandum to Kissinger. I could account, as I already have, again conjecturally, for the failure to use military force.

I can only say that had I known the steps called for in the memorandum to Kissinger were not being pursued, if they weren't, I think I would have raised hell about it. So the question then is—I would have to recognize I was around for a while longer, even though starting in the end of April I had to focus on the question of whether or not to appoint a special prosecutor and then the terms of his charter and so on.

But I would and should have raised hell about it if I had known that these things were not being done. And that means that I'm sure I didn't know that they weren't. It does leave the question of why didn't I know. And in answer to that, I don't know what to believe my own culpability is, whether through distraction or inadequate feedback or what, I honestly don't know.

Senator McCAIN. Thank you. Thank you, Mr. Chairman.

Chairman KERRY. Thank you very much, Senator.

Senator GRASSLEY. Let me just remind everybody that the secretary was trying to leave and we were trying to expedite the process.

Vice Chairman SMITH. Senator Grassley, would you give me five seconds. Just in a quick follow up point to Senator McCain's questioning, Mr. Secretary, I am not sure if it is Aldridge or Kennedy or both, but there is a memorandum around here somewhere in which they accuse you of overreacting in that memorandum. Are you aware of that?

Mr. RICHARDSON. No.

Vice Chairman SMITH. They were, of course, Secretary Kissinger's aides. And, unfortunately, I don't have it right here, but that was the way they characterized your memorandum. If you had any thoughts, does that surprise you to hear that?

Mr. RICHARDSON. Did you ever hear of Miles Law? Miles Law goes where you stand depends on where you sit. [Laughter.]

Mr. RICHARDSON. And it is universally applicable. And anyone in the Pentagon concerned with soldiers in the field, airmen, sailors, would tend to have, perhaps, a stronger feeling about what happened to them than people weighing geopolitical factors.

Vice Chairman SMITH. I take it you did not think you were overreacting in your memorandum.

Mr. RICHARDSON. No, I don't. In fact, as I said earlier, I really didn't recall the memorandum. It looked pretty good to me and still does.

Chairman KERRY. It might even look better today.

Senator Grassley.

Senator GRASSLEY. I am going to have my staff give you a document here to look at, and it is the same document I talked to Admiral Murphy about earlier today.

Just for clarification, you were Secretary of Defense from January something 1973 to when in May 1973? Just roughly, end of May 1973?

Mr. RICHARDSON. It was about May 14 or something like that. May 24.

Senator GRASSLEY. Some of the pages that you have before you in this document, then, would have been seen by you, because there is a—it is not very clear on every page, but on the originals it would say: Sec Def has seen. These are reports on—or the bottom line would indicate for different weeks, March through June, a list of Americans captured, POWs. That is what that bottom figure of 81 and 80 and gradually reduced down to 67. The last pages would be after you left office.

I am using this opportunity to clarify the fact that Admiral Murphy indicated that you probably—I should not say you, but the Secretary of Defense probably would not have seen these documents. And I want to ask you, do you remember—I am not asking for specific remembrance, but the way the process works, you would have seen these documents and I assume that you would remember them?

Mr. RICHARDSON. Yes, I think I did see them. Not necessarily every one of them, but I was aware that there were such records and I'm sure I saw them.

Senator GRASSLEY. OK. Now that you have a chance to see that on these dates—and this would be after President Nixon had made the statement that there were no more prisoners, all the people had come home—what sort of a reaction would you have today

about these reports as compared to that statement? It was our official position, it was fully coordinated, and it was all the way to the top, that, you know, we had gotten everybody home.

Mr. RICHARDSON. Well, I addressed this earlier.

Senator GRASSLEY. But I mean in light of the fact that these reports were still coming in.

Mr. RICHARDSON. Well, I tried to call attention to the distinction as to the degree of certainty with which a given proposition can be stated. For purposes of our best estimates as to the number of current captured, the intelligence resources of the Government would put together all the bits and pieces they had and come up with a number which represented the weight of that evidence, and I suppose that is what this number reflects.

The President's statement would presumably be tilted in a direction designed, as I suggested earlier, not to raise false hopes and so on, whatever may have been the considerations. Somebody could rationalize the distinction between the basis for this number and the basis for his statement. But how it actually came about—for all I know he deliberately chose to lie.

But I don't—I try to give him the benefit of the doubt, I would say that he—what he meant was that every prisoner as to whom we have definitive information.

Senator GRASSLEY. You do not disagree that this conflicts with that official statement, regardless.

Mr. RICHARDSON. No I don't, no.

Senator GRASSLEY. Thank you, Mr. Chairman.

Chairman KERRY. Thank you very much, Senator Grassley.

Senator Kassebaum.

Senator KASSEBAUM. Thank you. No, I do not have any questions for Secretary Richardson.

Chairman KERRY. Thank you. Senator Brown.

STATEMENT OF HON. HANK BROWN, U.S. SENATOR FROM COLORADO

Senator BROWN. Mr. Secretary, one nice thing about having you as a witness is that regardless of what committee I serve on, I seem to come under an area where you have worked in the administration. I do not know if that is a sign that you do such a great job you are in high demand, or that you could not hold a job under these circumstances.

I do not know of anyone who has served at the highest levels of policymaking in the U.S. Government that has a more admired reputation for integrity than you do, Mr. Secretary.

Mr. RICHARDSON. Thank you, Senator Brown.

Senator BROWN. Your willingness to take a difficult action when it really counted I think is something that Republicans—and, I believe, all Americans, but Republicans particularly, are proud of.

Mr. RICHARDSON. I discovered a long time ago, Senator Brown, that doing the right thing is the easy, lazy way.

Senator BROWN. I am not sure that it is always the easiest, at least at the time.

A lot of this issue comes down to a question, I think, of whether or not people were misled about the POW/MIA issue. During the

period of time you served as Secretary of Defense, do you feel the Defense Department or the President misrepresented the issue to the American people?

Mr. RICHARDSON. Well there are two levels at which one could address this. One is what was being done and the other is the status of it. I think the statements I've heard attributed to President Nixon were certainly misleading. Whether they were—and then you get into the kinds of shadings of meaning that I've touched on earlier, and most recently in response to Senator Grassley.

I did remember the statements that Senator Robb read from the press from me. I would have been pleased to hear one of those quotes days later, but I repeatedly said that the Defense Department was doing everything, in fact, that was in our power to track down additional POWs. I said that we believed that there were more, and I made these statements about the same time the President made his statement. Nobody flagged me down and I don't know whether I even noticed what he said.

Senator BROWN. Thank you very much.

Chairman KERRY. Mr. Secretary, thank you very much for staying the extra time. I know it has caused you some inconvenience. I apologize for the inconvenience. So, thank you very much. And Mr. Secord, General, if you could hang in there a little bit.

Mr. Secretary? Secretary Richardson? If we could just ask you to be available for any written interrogatories that may followup on the record, we would appreciate it. Thank you very much, sir. We would appreciate it.

General I earlier interrupted the colloquy with the Vice Chairman, and I apologize again for that, in order to accommodate Secretary Richardson. Thank you for your patience also. Senator Smith.

Vice Chairman SMITH. Thank you, Mr. Chairman. General Secord, let me see if I can just come back to get us back where we were, if we can both remember that.

As I think has already been put on the record, you were the Lao Chief of Air, Central Intelligence Agency, from 1966 to 1968, and you were also the Lao Desk Officer in 1972 and 1975.

General SECORD. 1973.

Vice Chairman SMITH. I am sorry, 1973. That is correct. And basically these were your guys on the ground over there in Laos, correct?

General SECORD. Yes, sir.

Vice Chairman SMITH. That is a nice way of putting it.

General SECORD. To an extent. Things changed over time.

Vice Chairman SMITH. I am just interested in hearing from you, not really to interrupt you with questions. What I am trying to focus on—the testimony from a number of witnesses seems to come across that this intelligence existed, this information existed. I am focusing on Laos now. And it was passed up to the highest levels.

I do not want to, at this point, pass any judgment on what happened in that regard, but I would like to know from you, as specifically as you can say, what information you had at your disposal to allow you to come to the conclusions that you came to, and which

you passed on to your superiors at this time in March-April? And feel free to be as specific as you like.

Again, you already testified before we moved over to Secretary Richardson that you said it was absurd to think that there were not POWs there during the war that were captured. And it was inconceivable, the President said, and you went beyond that and said absurd, to think that people were not there after Operation Homecoming.

Obviously, that is a significant statement from the one person, if anybody, who could make a definitive statement to that effect. You can. And I really want to give you the opportunity to just take the microphone and tell me why and how you know that, because it is extremely significant to this whole issue. So, please feel free to just do that.

General SECORD. We had been fighting for 10 years in Laos at the time you are talking about here, in 1973, with increasing severity say from 1965 or 1966 onward. We had 80,000 odd so-called irregulars under arms that we were supporting throughout Laos—North and South Laos.

The war in North Laos was quite different from the war in South Laos, incidentally. It's like two different wars. But in the North you had the Meo-Hmong predominantly. And in the South, a different series of tribal groups. And the Lao, which we were trying to project as best we could against the flanks of the North Vietnamese Army, as Ambassador Godley I think explained fairly well this morning.

During this time, we relied increasingly on air support because we were so weak on the ground. We really couldn't prevail in actual combat against any significant units without air. But we learned how to use our air, indigenous air and U.S. air, very, very well. And we turned many, many victories as a result of this use of air power.

The penalty, of course, was the loss of an awful lot of aircraft and airmen. We paid as much attention as we humanly could, at least when I was there, on the ground there, to tracking these downed airmen. There are many examples of airmen being rescued by our indigenous forces, and by our Air America people, and by our USAF helicopters all over Laos.

It was easier to rescue downed airmen in Laos, by the way, than it was up in the Hanoi control zone. There it was almost impossible. In Laos it was very possible if you got there quick enough. So we had a very rapid reaction system set up that worked, in my view, quite well.

Each case was different, of course. The circumstances were different. But many, many, many times, we would have a good beeper. You know what I mean by that—when the pilot bails out, his automatic system that broadcasts. Radio contact, many times, with the pilot or pilots on the ground. Rescue forces trying to be mobilized and sent to the air, and then we'd lose them. They were either killed or captured.

We had reason to believe, because of the circumstances involved many times, that they had been captured. As I said earlier, you never know anything in this game. There's a lot of uncertainty involved.

But we're talking about large numbers here, and that's why I said it was absurd to assume that at least a few more—20, 30, 40 more people would not have been named or turned over by the North Vietnamese Army in Laos.

So, we kept track of it in the field and we kept track of it, as I think I said earlier, at various headquarters. In the field we had a rudimentary system. We had an older battle room wherein—the old fashioned way, with a grease pencil and large-scale, 1—50,000 maps, we plotted significant intelligence as it came in, no matter what the source. If it was raw, unevaluated rumor for Meo tribesman, we still plotted it.

Our OB specialists assigned different degrees of reliability to this data, and our reports officers analyzed this data, and then it was sent back in to headquarters where they further analyzed it. That is what intelligence really is. It is crunching the data constantly, and trying to see if you can corroborate it through other sources, technical means, and so forth.

In Laos, we had some classified intelligence too of the type that I guess I can't talk about in this setting. None of it was determinative, as I recall it. But there was some information floating around out there that talked about prisoners from time to time. I already mentioned the case in the caves up around what is now the famous Sam Neua area. I mean, we knew we had some people there because we planned to rescue them, but it went awry, unfortunately.

So, it was just my feeling—

Vice Chairman SMITH. Excuse me for interrupting. But in terms of knew—you say, we knew. We can say, without being much more specific, that aerial photography—it is OK to mention that. Is that accurate to say that that was one of the reasons why we knew of POWs in Laos?

General SECORD. We had an agent report on the POWs in the Sam Neua Province area to start with, and this is the way they typically—the build up would start. And then we got the Meo to mount a little low-level kind of what they call foreign intelligence operation whereby we went into some sympathetic Pathet Lao guards that were there, and found one or two that was willing to talk, and described these three airmen. We were able to correlate the data that we got with their names and the dates—you know, they knew the dates that they came in and all of that.

Vice Chairman SMITH. Using your own intelligence?

General SECORD. We had photos of the case.

Vice Chairman SMITH. You had photos of the case?

General SECORD. Absolutely.

Vice Chairman SMITH. Did you ever see a photo of any people alleged to be prisoners around those caves?

General SECORD. We had photos of people we thought were cadre or guards. Our information was that they were kept in the caves and never allowed out of this particular cave. The reason why we had photos was because we were preparing to go after them.

Vice Chairman SMITH. I provided a copy of this. I had asked the previous witnesses about this. I think I asked my staff to give you a copy of it because I wanted to ask you one question on it. And that is—the main question is, are you aware of it? Have you ever seen it or anything like it?

And if so, could you explain the significance of that document for my colleagues and the record? It is a DIA—CIA document indicating locations, grid-points of prisoners, confirmed prisoners, in which there are several large—in one case, 20, and 7, or 8, or 9 references to prisoners.

General SECORD. Yes. Well, they're all references to prisoners of one sort or another. This comes off of that OB listing I was telling you about. And I think there was probably another sheet as well as this one.

Periodically, I think, headquarters would make summaries like this. And on the left side you have the UMT coordinates. You notice they're usually the four digits, which means it's approximate, and they always put vicinity of in this area. And this is where our intelligence was tending to indicate that we had prisoners; we thought we might have prisoners.

I mean, our guesstimates ranged always from rumor, as I said, on the one hand, to pretty solid evidence as I have described in the case of Sam Neua on the other hand, and everything in between. This is, I believe, a compilation of all that including not just Americans but also Lao Army.

Vice Chairman SMITH. There are other Senators that I guess want to ask questions. Let me just ask you a final one, and feel free to comment beyond that if you like.

Do you know of any—do you have any direct knowledge of any individual in the United States Government in 1973 who countermanded the recommendations that came up through the channels regarding prisoners in Laos—the intelligence channels in Laos?

Do you know of anyone who said, we are going to ignore that and move on, or it is no good? Did anybody—do you know of any indication or do you have any direct knowledge of anyone?

General SECORD. No, I certainly do not, and there would have been a revolt if we had run across anybody like that.

Vice Chairman SMITH. How do you explain it being very good evidence, very good information in February and March, and not good in April?

General SECORD. Well, I can't explain. Now you're talking about something different. You're talking about a decision that was taken way above my—I was a staff officer—taken by the Commander in Chief; a decision taken to pursue this matter through other means. For instance, they set up the Joint Casualty Resolution Center, and I am sure you know more about that than I do. And that we pursue it through trying to harden up the intelligence information. And there was always the hope that we could mount a Special Forces raid if we really got hard intelligence and things like that.

I viewed that decision at that time as a political decision taken by the President. I still view it that way. I don't agree with it. You can find legions of people who would come up here and say they didn't agree with that.

Vice Chairman SMITH. Without casting any aspersions on anyone, let me just ask the question this way. In your professional assessment as an intelligence officer in 1973, were live American POWs remaining in Laos, for whatever reason, remaining in Laos after the Paris Peace Accords were signed, and after the American POWs, the last group of American POWs came home on March 28.

General SECORD. I was not an intelligence officer, I was a fighter pilot.

Vice Chairman SMITH. I'm sorry, fighter pilot.

General SECORD. I was an operational staff officer. But the answer to that question, obviously, is affirmative. I mean, that's why we drafted the memo we've been talking about here for some time. And I think that I really can't add anything to it. I was very interested in what Secretary Richardson had to say about these decisions. I really can't add anything to what he said.

Vice Chairman SMITH. Thank you, Mr. Chairman. Thank you, General Secord.

Chairman KERRY. Senator McCain?

Senator MCCAIN. Thank you, General. Let me just ask a few quick questions here. Do you believe that there was any conspiracy to cover up the existence of any live Americans either in Laos or anywhere in Southeast Asia?

General SECORD. No, sir, I don't. I've never seen any evidence of that.

Senator MCCAIN. Do you believe that it would have been possible, without the knowledge of a number of military officers and enlisted people such as yourself who were in some way in the loop?

General SECORD. No. There are so many people in that loop that it would not have been possible, in my opinion.

Senator MCCAIN. Even if there had been a conscious decision made at the highest level of government that we would conceal information from the American public about the existence of live Americans, would that have been possible without the complicity of the working officers and enlisted people in the military?

General SECORD. Well, you had a sort of concealment that occurred, de facto, because all of this stuff was kept classified for such a very long period of time. And that is a form of concealment. I think it was a political hot potato and people really didn't like this subject.

Unfortunately—you know, hindsight is wonderful, looking back at it. What I think happened was we evolved through the Watergate era on this issue, and it just dragged on and on, and it was just kind of pushed off to one side, and it became less important in people's minds. To our discredit, I think, it kind of left the consciousness of nearly everyone.

But I think those of us who knew the truth, or what we thought to be truth, were always bothered by this. I don't know what else I can say.

Senator MCCAIN. At the time that you wrote your memo, would you describe the evidence you had as circumstantial, or would you describe it as, quote, hard evidence. And I know we get quickly into a problem with semantics. But I guess maybe I would say, how would you describe it?

General SECORD. That's a good question, and I don't remember how I thought at that time, exactly. And, remember, I didn't write this memo alone. This was a team effort. We felt that it was pretty hard, pretty hard information. I personally did because of my personal experience in the field.

Now, it is possible that these individuals that I mentioned earlier were killed. I mean, the fact was when our abortive effort to get

them out blew, in effect, it became known to the enemy, that camp went inactive in photography and every other way just like that. And we assumed, and we had some unsubstantiated reports, that they were moved to other areas nearby, Ban Nikai, and Nua, and Tua, but we were never certain.

It's also possible that they were killed, you know, but we had to assume that they were alive. It's foolhardy to assume that they were killed with no evidence. So, we had to assume that it was still hard evidence, hard intelligence.

Senator McCAIN. And we had had—correct me if I'm wrong—at least two Americans who had escaped from camps in Laos.

General SECORD. Well, we had at least one I remember. Deiter Dengler, the naval aviator. And, in fact, we raided the camp he was in. You may not be aware of that, but we did successfully. Was there another one? I don't remember.

Senator McCAIN. I guess Nick Rowe was in the South.

General SECORD. In South Laos? We got a number of them out of the clutches of the enemy just as they were carting them off.

Senator McCAIN. Well, I guess maybe I would like to ask you the same question again, maybe to sum up. What is your speculation as to how this whole thing has evolved, and here we are, 20 years later with it still not resolved?

General SECORD. My speculation?

Senator McCAIN. Yes.

General SECORD. For what it's worth—not worth much. I think that the executive long ago should have declassified all this data except for the really sensitive sources and methods involved, and there's not much in that category, in my opinion, and let the people sort it out for themselves.

I think that a lot of evidence and information was concealed for too long a period, and know many, many officers retired and in active duty who hold the same view, many.

Senator McCAIN. Do you share the view expressed by some witnesses that the mood of the country was unfortunately, tragically in my view, such that they wanted to forget about the Vietnam experience and everything associated with it?

General SECORD. Well, yes. I hung on Admiral Moorer's words. I think he was absolutely right on with what he said about that, and also Secretary of Defense Richardson. It is a tough decision to use force in a circumstance where you do not have the support of the populous. It is a real tough decision. I would not gainsay that at all. But, obviously, we in the Pentagon were in favor of the use of force if necessary.

Senator McCAIN. Thank you. Thank you, Mr. Chairman.

Chairman KERRY. Senator Kassebaum?

Senator KASSEBAUM. Thank you, Mr. Chairman. General Secord, it seems to me one of the major debates after Operation Homecoming was how to rate the intelligence. You made the comment earlier that creditable evidence, I believe, led you to argue that there were Americans still Laos. Is that correct?

General SECORD. Yes, Senator, that's right.

Senator KASSEBAUM. I wondered if you could shed any further light on this issue of what the difference is between the POWs who

came home and those who did not, and on the debate that ensued, and continues to, over the intelligence on those that did not return.

How do you differ between the 9 who came out, and the 20,000 some you believe were still there?

General SECORD. 20,000? No, not 20,000, but a certain substantial number. We could only speculate. We did not have that quality of intelligence.

Senator KASSEBAUM. 20 to 40.

General SECORD. If it was 20,000, maybe even DIA would have found them. [Laughter.]

Senator KASSEBAUM. That is a big figure that I had not heard myself.

General SECORD. That slipped out. I shouldn't have said that, really.

Senator KASSEBAUM. Well, but that is one of the questions. You were working with CIA. How did this fit with DIA or NSA? I mean, I find it very confusing to really sort through, and you seem to that—you tracked this intelligence when you were there.

General SECORD. At that time.

Senator KASSEBAUM. And as I say, I think that—I would just like to know how you assess—why there seems to be such a disparity and what we should be looking for.

General SECORD. I can only speculate what happened after the spring of 1973 because I, too, moved out of that position. My speculation is that given the decision that was taken at the highest level not to pursue Secretary Richardson's recommendations, which were an escalation ladder, a classical escalation ladder, and to pound on the North Vietnamese because they truly held the key. There was a decision not to do that.

You have heard from all kinds of people higher ranking than me who did not agree with that decision. But that was the decision, apparently.

What happened after that should have been a really intensive intelligence campaign, in my opinion, by all the agencies, not just DIA, to pin down immediately—because as time goes on the changes of finding anybody alive diminished dramatically. You know, geometrically, the probabilities probably diminish as time goes on. I don't see any evidence that there was a really intensive intelligence campaign mounted.

Senator KASSEBAUM. But after, the intelligence was the same I assume on those nine who were released, and on those who you believe were still there.

General SECORD. I don't believe that's accurate. You'd have to ask the experts on that. But I don't believe—you know, I don't remember what intelligence we had on the 9 or the 10, or whatever it was.

Senator KASSEBAUM. Well, you just said—I guess I was using an earlier term when you said creditable evidence that led you to believe there were more American POWs in Laos.

General SECORD. Yes, ma'am. That's right. I just don't remember what our holdings were on the ones who were released. I don't recall what the holdings were at that time.

But we knew, as I said several times now, to a high degree of certainty, that there were some substantial number of prisoners

left in Laos. And I have cited to you three people that we knew by name that were there. At least at a certain time we knew they were there.

Senator KASSEBAUM. Why do you think that—as you say, as time went on, of course it became more and more difficult to perhaps even be able to get them out. On the other hand, through the spring, clearly when there is a recognition that perhaps there was not the will to do what was necessary, why did we not in 1974, 1975, 1976 pursue some means?

General SECORD. Senator Kassebaum, you'll have to ask somebody higher ranking than me. I just don't know.

Senator KASSEBAUM. But you have been very involved in intelligence work, and activity.

General SECORD. But I left in 1973 to an entirely different kind of job. I left ISA and went over to the Defense Security Assistance Agency; arms sales that didn't have anything to do with intelligence.

Senator KASSEBAUM. And you did not continue to keep contact with anybody knowing that, as a matter of fact, there were still prisoners there?

General SECORD. Well, to an extent, but I wasn't reading the traffic anymore. You see, if you're not in that loop, as everybody is saying these days, you're out of the loop.

Senator KASSEBAUM. Well, it becomes handy to be out of the loop sometimes, I guess, does it not?

General SECORD. Well, yes, but I just think there was some benign neglect going on here, and as time went on it seemed to be less important. And I think that's not right.

Senator KASSEBAUM. Thank you.

Chairman KERRY. Senator Brown?

Senator BROWN. Just one question. General, looking back on the period of 1973-1974, what actions would you have recommended that we do in that period that we did not do? What actions should we have taken that we did not do?

General SECORD. My best shot was the memorandum that we've been discussing here that Mr. Richardson signed to the White House. It seemed to us, the collective us in my shop, which was charged with monitoring policy and recommending policy papers to our superiors, all of whom were civilians, up the chain to the Secretary of Defense, it seemed to us that this escalation ladder that we recommended was only common sense; that it needed to be undertaken immediately. It was not going down the way we liked it, and that if you had to go back to hostilities again, so be it.

Remember, we had just 3 months before bombing North Vietnam literally to their knees. We had a very successful campaign called Linebacker 2 which we had been kept from executing for years. We could have put them on their back if necessary.

Senator BROWN. As I understand it, Congress had cut off all funds and specifically prohibited—

General SECORD. I'm fuzzy on the timing, sir.

Senator BROWN. But faced with the cutoff of funds, what would you have recommended? What should we have done? What should the administration have done faced with the cutoff of funds for military alternatives?

General SECORD. If the Congress totally tied our hands with respect to ability to wage another offense, another bombing campaign, then what I alluded to earlier seems to be the only option. That would be to mount an intensive intelligence operation using all of our intelligence community and really putting some dollars behind it.

Intelligence work always boils down, in my experience, to how many dollars you've got. It's a matter of resources, manpower.

Senator BROWN. I am not sure that is always true in Congress, but perhaps I have different view.

General SECORD. And I just don't see any evidence that there was really big, heavily funded intelligence program.

Senator BROWN. Thank you. I yield back, Mr. Chairman.

Chairman KERRY. Thank you very much, Senator. Let me just ask, Senator Dole is here. He wanted to make a statement. I do not know what his schedule is. We have one more questioner, I think. Senator, it is your pleasure.

Senator DOLE. It will take about 10 minutes.

Chairman KERRY. Is your schedule such that you could sit through Senator Grassley's questioning or should we put you right on? It is up to you.

Senator DOLE. I will defer to Senator Grassley. [Laughter.]

Senator GRASSLEY. He only says that because he owes it to me.

Chairman KERRY. Senator Grassley.

Senator BROWN. You mean not because he is urgent?

Senator GRASSLEY. General Secord, I have just got two sets of questions that can be answered very quickly. The first set if probably a reiteration of some things you said, but I want to have them answered again, but probably not for a long answer.

Something Senator Smith touched on. In your view, were there prisoners left behind in Laos after Homecoming?

General SECORD. Yes, sir.

Senator GRASSLEY. Were the number of prisoners significant enough to warrant military action?

General SECORD. We believed so.

Senator GRASSLEY. I would like to have you—in light of the memo that was written during that period of time, I think I would like to have further elaboration on that. If you had said yes or no, I would have been satisfied. But rather than believed so, I think I need to have you be just a little bit more definite.

General SECORD. Well, I have been fairly direct on that earlier today, I think. I will give it an unqualified yes. There is no question in my mind. As I was quoted, I said it was absurd not to assume that these people were there.

Senator GRASSLEY. I would like to have you describe for the committee how confident you were in the data, and how specific it was. And just give us some examples.

General SECORD. I think a lot of the data was flaky, but there is a law of large numbers that comes into play here. And we had a lot of case studies on each and every one of these downings, or nearly every one of them. Some of them were just gone, and we had nothing, but many, many hundreds of downings. We had all kinds of operational data, including some that I described earlier—every-

thing from good beeper, good chute, good beeper on the ground, transmitting on the survival radio.

Senator GRASSLEY. And this was after Homecoming?

General SECORD. No, no. I'm sorry. I misunderstood you. You asked me how confident was I in the data that led up the memorandum, I thought. I thought that was your question.

Senator GRASSLEY. I am sorry. You are right. Do you agree that your testimony conflicts with the statements of Nixon March 29, and Shields' statement April 14?

General SECORD. I'm not so sure it conflicts with Roger Shields. I haven't seen Dr. Shields in 20 years and haven't had the chance to discuss it with him.

With respect to the statements attributed—that I have heard here attributed to President Nixon, it does conflict with it, yes.

Senator GRASSLEY. Who was the dominant intelligence collector for Laos, the CIA or the DOD?

General SECORD. CIA, clearly, because of the resources they had on the ground.

Senator GRASSLEY. Who reported most of the information on prisoners and missing, CIA or DOD?

General SECORD. That's a good question. I don't know. Maybe 50-50.

Senator GRASSLEY. Well, that probably makes it more difficult for you to answer my next question. Who bears responsibility for the lack of hard intelligence, then?

General SECORD. The Director of Central Intelligence is in charge of all the intelligence community.

Senator GRASSLEY. Who should have the best information, DIA or CIA?

General SECORD. Well, Laos was a real weird war, you know. The CIA was in charge of the war in Laos, not the military. The military helped out a little bit on the side, particularly through the provision of air assets, but the military had very few people on the ground except for forward air controllers, which were very good, and some air attaches. Whereas the Central Intelligence Agency had several hundred people on the ground in Laos.

Senator GRASSLEY. So, then, you just can't say that it should be CIA or DIA that had the best information?

General SECORD. The reason why I waffled on that is because a lot of the intelligence data came from the air, and was reported by airmen who were in combat operations. And that goes into the defense channel. But there was no—I mean, this wasn't a turf battle that was going on out there by any means. We shared information constantly and as quickly as possible.

Senator GRASSLEY. Thank you, Mr. Chairman.

Chairman KERRY. Thank you very much. General, if you would also be available to us for any followup questions, we would appreciate it.

Vice Chairman SMITH. Let me ask one question while Senator Dole is coming up?

General SECORD. Does somebody want your paper back here, sir?

Vice Chairman SMITH. General Secord, while Senator Dole is coming up let me just ask you a question. Do you know of any individuals who were lost in intelligence operations in Laos who did

not turn up on anybody's MIA or POW list, or casualty list, like Lima Site 85, for example?

General SECORD. Sir, obviously you're reading my depo, I guess. But Lima Site 85 is a whole other story. It was a very tragic story.

Vice Chairman SMITH. Well, leave that one out then, if you have that in your deposition.

General SECORD. It's a long, long story. The short answer is yes, I think there is a possibility that some were left there.

Vice Chairman SMITH. Do you have any direct knowledge of that?

General SECORD. No, no. And we tried hard to get direct information.

Vice Chairman SMITH. I just want to—let me apologize to my leader here.

General SECORD. We tried hard to get direct information, but we were always uncertain.

Vice Chairman SMITH. I just want to make sure I understand your answer. Are you saying you believe people may have been lost in intelligence operations in Laos through intelligence activities that did not appear on any casualty list, POW list, or MIA list from the war?

General SECORD. I'm not sure how the Site 85 people were carried, Senator.

Vice Chairman SMITH. OK, just leave that one out.

General SECORD. Exclusive of that, no.

Vice Chairman SMITH. OK.

Chairman KERRY. Thank you very much.

General SECORD. Thank you, Mr. Chairman.

Chairman KERRY. Senator Dole?

STATEMENT OF HON. ROBERT DOLE, U.S. SENATOR FROM KANSAS

Senator DOLE. Mr. Chairman, I know we are going to have a vote here, too, fairly soon, and I will just take a couple of minutes, if I might, to make a statement. I know you have a busy schedule, and I know you have done a lot of good work, and I want to commend members of the committee on both sides.

Many of us who were engaged in this effort while some of you were in Vietnam have been fairly quiet throughout. I can recall, as a younger member of the Senate in March 1969, vividly, my first meeting with POW/MIA families in the Rotunda of the Capitol. And that was when they were thinking about the League of Families or somehow organizing a group so they could have some support.

They invited members of Congress. I think 2 or 3 showed up, and there were some 20 or 30 families present. I remember saying at that time that I promised in that meeting, because our first meeting was sort of a dismal attendance, that I would fill up Constitution Hall if they gave me 90 days.

We filled up Constitution Hall in 90 days. It was filled with the families and friends of the POWs and MIAs, and we were starting a fire of interest and determination to get to the bottom of this issue, a fire that burns just as brightly today because of the actions

of a lot of people way back there, all the way through, and now this committee and others who have appeared before the committee.

And I remember too the debate and vote on the so-called Dole-Helms Amendment to the June 1973 Supplemental Appropriations Bill; a matter that Senator Brown has recently raised in this committee. As the committee knows, that amendment would have allowed the President to waive the existing restriction on taking action against North Vietnam if Hanoi was not cooperating in resolving the POW/MIA issue. That was the issue. That was the essence of the amendment. That was my amendment with Senator Helms, and I think four or five other cosponsors.

Now I know, Mr. Chairman, you have made it clear that you do not want this committee to be a forum for refighting the war in Vietnam, and you are absolutely right, and I commend you for that. In fact, this committee has a clear charter from the Senate to do everything possible to determine if there might be POW/MIAs still alive and in prison in Vietnam, Laos, or Cambodia. And you are going about that work in a determined way.

Though without suggesting that it is the intent of the committee, there is certainly a fact of life that the media is reporting your work as a kind of "who shot John" exercise. The headlines are all full of finger-pointing about, quote, who abandoned, unquote, our POW/MIAs; about who is to blame for the situation where too little was done for too long; and trying to find out the truth about the fate of our POWs and MIAs.

In that context, Senator Brown's recollection of that time 20 years ago is a healthy reminder of the true state of our Nation at that time. At that time—not today, but at that time. Of the true state of our consideration both in the Senate and in the Nation at large of the POW/MIA issue. The media or individuals can make accusations about President Nixon or Secretary Kissinger, or whoever they want, and the Senate can give a platform to those who want to make those accusations.

But let us face it. When you line up the culprits who got us where we are today, the Senate itself should enjoy a prominent place at the front of the line. When you line up the culprits who have been held accountable for 2 decades of anguish the families of the POWs and MIAs suffered, the Senate itself should have a prominent place at the front of the line.

It is not too tough to sit here in 1992 and say, President Nixon should have done this or Secretary Kissinger should have done that about POW/MIAs. But it was the Senate of the United States that stripped the President of any shred of leverage as he tried to negotiate with the Vietnamese Communists. It was the Senate that sent out Henry Kissinger to a gunfight at the OK Corral, but gave him only blanks.

And the Dole-Helms Amendment 20 years ago said exactly what this committee and all sensible Americans are saying today. That this country, as we wound up our involvement in the wars in Indochina, should have had no greater priority than getting a full accounting for every single POW or MIA, every single one. And the Dole-Helms gave the Senate an opportunity to speak to that very

important issue. If you think it is important today, you should have been around then.

Well, the Senate spoke. They spoke loud and clear, but on the wrong side of the argument. Eighteen Senators, currently serving Senators, were around to vote on that June day in 1973. Six of us voted for the amendment. Myself, Senator Helms, my cosponsor, and Senators Domenici, Roth, Stevens, and Thurmond. Twelve Senators still serving today voted against the amendment.

I am not suggesting that any of them voted with anything less than total sincerity and total belief that they were doing the right thing. This was a long time ago, 1973, and they thought they were doing the right thing. I am not suggesting that any one of them had any less concern about the POW/MIA issue than the other six of us, or anybody here today.

But I am suggesting it is mighty easy to sit here in 1992, forgetting our own history, while creatively writing the history of what everybody else did and thought way back then, 19 or almost 20 years ago. It is mighty easy to sit here in 1992 and point fingers at other individuals, conveniently forgetting our own actions and our own words.

We had a responsibility too in the Congress of the United States. And I want to put in the record at this point the entire text of that debate. And I included in the record at that time a list of all the POWs and MIAs at least we were aware of at that time.

I want to conclude my statement with one brief excerpt, and I quote. This is what I said, and I must confess like everybody else, until Senator Brown raised this I had a foggy recollection. But I went back and checked it out, and I want to thank Senator Brown for that.

Here is what I said: I am under no illusion. I do not expect this amendment to prevail. But I would hope that those who read the record and those who sit down next year or 20 years from now to read the record, in the event the North Vietnamese do not carry out the agreement, will know that there were those of us in the Senate who stood and let our views be known.

I am not a prophet, but I think I sort of understood that this was an issue that was going to be around for a long, long time. And I am not here to defend anybody. But I felt it necessary because of what I have been reading; not what the committee has done. But what I have been reading and what I have been watching on television is sort of a retrial of what happened 20 years ago. Pointing the finger of blame to anybody, whether it is Nixon or Kissinger, whoever it might be, who somehow disagrees with what the media thinks it ought to be today.

So, Mr. Chairman and Mr. Vice Chairman, I would hope that before we conclude action in this committee, we will go back and take a look at a lot of things the Senate failed to do, or the Senate did, or the House did, or the Congress did together in making it very difficult for the President of the United States to have any leverage at all in dealing with the POW/MIA issue.

So, when we hand out the blame or hand out the credit, we should not lose sight of what the United States Senate was doing at that time—not now, but that time. And I can remember being engaged in the Cooper-Church Amendment debates day, after day

after day. I remember starting out opposed to the Cooper-Church amendment and ended up one time voting with them after certain changes were made because everybody was concerned about Vietnam. We were concerned about John McCain who was there, and John Kerry who was there, and anybody else who may have been there.

So, Mr. Chairman, I appreciate the courtesy of letting me come and express my views. And let the record show that we are not blameless. Maybe today we believe are blameless because it is after the fact, but we were not blameless in the late 1960's and early 1970's, when it was tough—when it was tough to get anything done; when everybody felt the same: "Get out of Vietnam."

And maybe we could not account for every single American, but I have got to believe that most members in the Defense Department and other places of authority did the best they could. We did not do the best we could in the United States Senate.

[The information referred Public Law 93-52 is printed on page 90.]

Chairman KERRY. Senator, thank you very much for taking the time to come and for your statement. We appreciate it enormously and, indeed, it is an important part of the record and it should be part of the record.

If I could take a moment just to share with you some observations on it because I read through it. I think that in a way your being here and your calling to our attention this particular debate really helps to underscore what this committee has discovered. And I think since you have much more important duties on a day-to-day basis than we do, and you are not sitting here every moment, you are not privy to perhaps all of what has evolved here.

But we have evidence in front of the committee which shows that there were a group of people actually listed as POW whom we believed to be POW who did not return. Now, your particular amendment did not directly deal with POW. It dealt with MIA, which is the distinction that regrettably was in effect at that time, and there is no—God knows exactly how that came about. We are trying to figure that out.

What we have been wrestling with is the notion that if you yourself had had a different amount of information, if the Senate had had different information, I am convinced your debate would have been very different.

I think another problem in your debate that I have read is that it appears to have gotten confused with the larger efforts of getting out. As I read the debate, it was not just about MIA, even. And I would read you—and I only do this because I think it really helps to understand what you were wrestling with at that time.

Senator DOLE. I might say we had wrestled with it not just on this day. We had been wrestling with it for months and years.

Chairman KERRY. I understand that and I agree with that. And you have been a leader in the effort always to have that accounting. But your first paragraph of the debate says Mr. President, the real question before the Senate today is whether the Congress, after many years of unavailing efforts by a minority of its membership, is finally going to throw in the sponge and turn Southeast Asia over to the forces of aggression.

So in a sense, there was more wrapped up in the debate for many people than just the MIA question. And then a couple of paragraphs later you said in this debate all American combat forces have been withdrawn from Vietnam, our prisoners of war are home. You put in a list, but the list you put in was a list of the missing in action.

Senator DOLE. Right. MIAs, right.

Chairman KERRY. And at a later part in the debate, there is more discussion about MIA, MIA, MIA. What we have learned is that this is not really about just MIA. The committee has even today, and there is no reason you would have known this because a lot of this testimony has come out today, that there is in front of the committee a body of evidence suggesting that that there were people who had information not about MIA, but about POW. These are people with names and faces. And I am confident that had they given you that information you would have debated very differently.

In fact, there is a letter here you sent to your colleagues. The letter you sent said we believe the Senate must go on record for a clear accounting of all MIAs. I am positive that if someone had said to you Senator, these people are prisoners, they are not back, you would have written to colleagues saying we have got a problem.

Now, the fact is that Roger Shields is quoted here in this debate, and he says I want to assure you, also I want to reaffirm, we consider each of our missing equally as important as our prisoners who are returning. So there is an enormous distinction here, and it may be inadvertent, it may be—the committee is trying to figure it out, but clearly, you and other Senators were not dealing with the full information that was available to some at that point in time. And I think it changed the debate.

Senator BROWN. Mr. Chairman, would you yield on that point?

Chairman KERRY. Yes.

Senator BROWN. Just a point of clarification, at least as I read the debate at that point, it talks about looking for inspections, operations of inspection being undertaken in North Vietnam, that we get verification and information on missing men. Obviously, in looking at that aspect of it, it seems to me to be a distinction without a difference. But since we have the author of that amendment here perhaps we ought to ask him if he meant to exclude people who were missing in action and possibly held as prisoners when he used MIA terms or did he mean to cover only those who are missing in action and not held as prisoners?

Senator DOLE. Well, I think it is fair to say back in the late sixties there was a lot of confusion about—you know, some people did not know the difference, MIA or POW, and I can remember myself making that mistake early on when going to meetings and being reminded time after time by MIA families that my son may not be a POW, my son may be missing in action. And I think at this point we probably were addressing those who were missing in action. But that was not, as I recall—I would have to go back, and I am sure we had other debates on this very same issue, so I think there would probably be plenty of material available to define it. But the list I included were missing in action.

Chairman KERRY. Yes, sir. But in fairness, I want the record to be complete.

Senator DOLE. I am not certain I tried to limit it to missing in action, but the names I submitted were missing in action.

Chairman KERRY. Well, what is interesting is that Roger Shields, to his credit, had appeared before a committee, and he told us this previously, and wrapped into your submission was one of those unanimous consent things that we always do, and you had included his statement. In his statement, there was a paragraph where he referred to those we thought actually might be captured. So he clearly had this in his mind then. And what the committee is wrestling with is that somehow that never reached a broader consciousness and that it went away in the debate merely by the inclusion in a unanimous consent but not really as part of the debate.

Senator MCCAIN. Mr. Chairman, may I make a comment? First of all, I read the debate. I see no distinction between POW and MIA. The reason why Senator Dole included that list of names was clearly because they were people that there were significant questions about. And he did not know, nor did anyone know, if they were missing or whether they were prisoners. So I think your distinction is somewhat—let me finish, if I may.

Chairman KERRY. Senator, I am truly not playing a game here.

Senator MCCAIN. Well, I think you are.

Chairman KERRY. The Senator himself said our prisoners of war are home.

Senator MCCAIN. Am I going to be able to finish my statement, Mr. Chairman?

Chairman KERRY. Absolutely.

Senator MCCAIN. Thank you.

Chairman KERRY. I am just pointing out what he said.

Senator MCCAIN. Well, if I could finish what I am saying, I think it is disingenuous to say that Senator Dole was only talking about missing in action. He was voicing his concern, as I read that debate, including adding those names about unresolved cases, and that is why he put in those names as he did.

Second of all, this is not the only instance of debate. I mean, it was a field day. It was a field day. Thirty United States Senators proposed a resolution that the United States get out of Vietnam unilaterally without any other conditions whatsoever. Time and time again people said we want out and we do not care. And they were sure that the Vietnamese would then return those Americans they were holding as prisoner, and it is a matter of record that their basis and premise was that once we got out, then the Vietnamese, because they were such nice people—remember, they were going to install a democratic government in South Vietnam, a freely elected government. Remember, let the Vietnamese people determine their own future themselves, and they would willingly give back our American POWs.

So I make two points here. One, what Senator Dole is pointing out is only one instance of many debates that took place in the Congress of the United States where unilateral withdrawal was the order of the day, and number two is that he clearly—I do not think anybody in their right mind would have gone before the Senate of the United States and said well, do not worry, these are only miss-

ing. He was voicing, in my reading of the debate, the concern about these people that he listed, that he went to the trouble of listing.

So I find the distinction that the chairman draws between MIA and POW frankly irrelevant.

Chairman KERRY. Well, the fact is, Senator McCain, it is not irrelevant at all. It is absolutely germane to this. Senator Mansfield stood up in response in the debate and said there is no person in this chamber who is not interested, if not more interested, in the missing in action, just as we were interested in the release of the POWs.

Senator Percy, a Republican, stood up and said I cannot justify continued American air support over Cambodia and Laos in an effort to put greater pressure on North Vietnam to release information about the missing in action.

There is not a word in this debate where somebody asserted that people were being held still that we knew were prisoners. Now, I am sorry, the record does not say it. I know there was an agony then, a long agony over unilateral withdrawal, not unilateral—absolutely, there was an agony. And there was much debate about it. But never did it seem to evidence names and faces of people who really had not come back. Now, I will let the record speak for itself.

Senator Dole?

Senator DOLE. Well, I would just make the point—you can argue whether MIAs and POWs were the same thing at that time, but I think the point I wanted to make is when I read all this or watch television or hear reports of what people are being accused of, then I do not want to leave out the United States Senate. We did not cover ourselves with glory, either, at that time. And it is pretty easy to rewrite history 20 years later when a lot of people are not around and a lot of people may have forgotten precisely what happened 20 years ago. This is a matter of record, and we are searching other debates. We may have more information.

Chairman KERRY. Absolutely.

Let me say on the record, there was a lot of naivete in the antiwar movement, there are a lot of stupid statements made by a lot of people, and this was a time everybody has acknowledged—

Senator DOLE. Some of them were in the Senate, yes.

Senator KASSEBAUM. Mr. Chairman, I hate to carry this further, and I think Senator Dole has made a very important statement, but I do think, like Senator McCain said, it is a bit of semantics in this. You asked Dr. Kissinger yesterday about two prisoners of war, Dodge and Hrdlicka. And they are listed on this list that Senator Dole has.

Senator DOLE. Right on this list. That is the point.

Senator KASSEBAUM. That you said were missing in action.

Senator DOLE. I think they were lumped together.

Senator KASSEBAUM. So I think they are lumped together.

Chairman KERRY. I understand that. The distinction, and I made this this morning—this is a really critical point to this entire effort—I said this morning that something happened to slide people from known POW status into MIA status. Indeed, they showed up on a list of MIAs. That is part of the problem. Had they been put on a list of these people are known to be POW or were last known to be, I still assert this debate would have been different. They

were on a list of MIAs because that was a far more convenient way to deal with them at that point in time.

Senator BROWN. Mr. Chairman, if I could interrupt on that point, I believe the way the records were kept at that point, the classification was between not known to be dead—i.e., MIA—and KIA—body not recovered, in effect. And the Defense Intelligence Agency data breakdown that was put out on January 29, 1973 of that year breaks it down that way, that is, 1,361 MIAs versus 1,100 KIA or body not recovered. So the classification that was used at that time and used in this resolution and used in the floor debate was "MIA"—an all-inclusive term of both the prisoners and the missing versus people killed with the body not recovered.

I think a clarification is simply the term Senator Mansfield used in the debate. He refers to people as MIAs who might be shot down over Vietnam if we conducted additional air raids. The term used there is clearly anybody missing in action, whether they are a prisoner or not. And checking the way DIA kept records then and the way the debate followed it, it seems clear that the distinction was between MIA and killed in action, body not recovered. At that point, we did not distinguish between POWs and MIAs.

Chairman KERRY. Well, if that were true, then it would be very hard to explain a number of different things, ranging from the documents that Senator Grassley put in earlier to Mr. Clements, who we will hear from, who said presently there are—this is a memo to the president of the United States from the Deputy Secretary of Defense on July 17, 1973. And it says presently there are 1,278 military personnel unaccounted for. Of this number, 67 are officially listed as prisoner of war.

Senator DOLE. They were all MIAs.

Vice Chairman SMITH. That is right.

Senator MCCAIN. They are still missing.

Senator DOLE. If they were not home, they were missing.

Chairman KERRY. Well, I think this debate obviously is going to—let us try to—I think, Senator, we appreciate the statement. It is part of the debate.

Senator DOLE. I know you are glad I dropped in. [Laughter.]

Chairman KERRY. We are always delighted to have you drop in.

Vice Chairman SMITH. Mr. Chairman, I would like to weigh in on this for a second. I think that, as I said yesterday, or day before yesterday when Secretary Kissinger was here, I indicated an agreement with him, essentially the same statement that you made that if, in fact, it is determined that individuals did not come home, which appears to be the obvious conclusion, then if there was some responsibility for that it would be shared, and I think you are absolutely right.

But I also want to state, because these numbers are very confusing, but in following up on what Senator McCain said, the same day that you made that statement—it took me a little while to find this—but on the same day that you made that statement Roger Shields, to his credit, testified before the Congress, and he said, as for those who are thought to have been captured alive but have not been returned, let me say this is perhaps the most agonizing and frustrating issue of all. These are the cases of men who were seen on the ground or whose pictures were released subsequent to cap-

ture, but who for one reason or another have not returned and for whom the other side has yet to provide a satisfactory explanation.

And as I showed yesterday in the numbers, Senator McCain is correct. There were 87 cases, discrepancy cases, with the strong possibility were POWs, but there were also 1,100 cases of KIA and also there were 1,277, based on the lists of that time who were not—who were missing, in the same category that you mentioned, who had not been proven dead.

And therefore, to use the term as you have is perfectly appropriate, Mr. Chairman. This is the concern that you have over this. I have discussed this with you before, but on lists you—there is a huge number, 1,277 people out there that they are simply in limbo because no one has said, even though they are missing, no one has declared them dead and no one has declared them alive. And that is why I think that the terms are correct and used interchangeably.

And Shields says it. He references those people right there in his statement. Those who were thought to have been captured alive but have not been returned. Let me say this is perhaps the most agonizing and frustrating of all. They are not on a POW list. That is an MIA list. And it is absolutely right.

Senator DOLE. Thank you very much.

Chairman KERRY. Thank you very much, Senator. We appreciate it.

If we could have Mr. Clements and Mr. Shields and Mr. Robson. Let us do that, we will take a 5-minute recess. Five minutes only.

[Recess.]

Chairman KERRY. The hearing will come to order.

Gentlemen, could I ask you all together to rise so I can swear you in, please? Raise your right hands.

Raise your right hand.

Do you each individually swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Governor CLEMENTS. I do.

Dr. SHIELDS. I do.

Mr. ROBSON. I do.

Chairman KERRY. Governor, do you have an opening statement that you want to make first?

Governor CLEMENTS. I have a few brief remarks.

Chairman KERRY. We would welcome them.

TESTIMONY OF GOVERNOR WILLIAM CLEMENTS, DEPUTY SECRETARY OF DEFENSE 1973-1977

Governor CLEMENTS. First, Mr. Chairman, let me say that I am pleased to be here. I understand the difficulty of this question that is before your committee, and I am hopeful that I will be able to shed some light and bring some information that will be of some interest to you and to your committee members.

I have a few brief remarks that are not a formal statement per se. One of the things I would like to do would be to quickly lay before you and the committee the way the Department of Defense was organized at the time that I was the Deputy Secretary.

Chairman KERRY. Could you just for the record put the dates of your service in the record?

Governor CLEMENTS. I joined the Department of Defense in January 1973, and 4 years later, in January 1977, I left. So I served 4 full years as the Deputy Secretary of Defense.

Within DOD, the services control classification, in the sense that when you have your POWs or MIAs or KIA's, those classifications are service-classified. The Department of Defense, as you would think of my position in the office of the Secretary of Defense, we do not do that. We did not then do that. Now, exactly what they would do at this time, I don't know. But at that time, those classifications were held within the services. In other words, the Navy classified their people, Army did theirs, and the Air Force did theirs.

I want to make that very clear because it's important that your committee and the public at large understand that the office of the Secretary of Defense and/or the State Department and/or the National Security Council, nor the President—nor the President—had any control whatsoever over classification. That was strictly within the services.

There were many, many discussions with Secretary Kissinger, who at that time was the National Security Advisor to the President. And of course, the National Security Council was subdivided into several committees. And my recollection is that those subcommittees numbered six. These subcommittees had various responsibilities that related to different segments of national security.

Scowcroft, at that time, was the deputy to Kissinger, and Kissinger, in turn, was the executive director, as I would call him, to the National Security Council.

The Financial Security Council was composed of the President, the Vice President, the Secretary of Defense, the Deputy Secretary of Defense, and the Director of the CIA, and the Secretary of State. The National Command Authority was a different body. And of course in the times of conflict, the National Command Authority becomes very, very important.

The President was number one. The Secretary of Defense was number two. The Deputy Secretary of Defense was number three. And the Chairman of the Joint Chiefs was number four.

Now, so far as Vietnam and Laos and Cambodia surveillance is concerned, this was continuous in all aspects. Whether it was in overhead or humint intelligence or diplomatic channels, and also as it relates to dollars spent and energy expended. I have never heard anyone say that they thought that there were live POWs. Possible, but not probable.

Now, unfortunately, there have been some misstatements made about what who said what and who shot John. I certainly never said that there are no live POWs in Vietnam or Cambodia or Laos. I said there are probably not. That's the flip side of the coin of saying they're probably are. I said there probably are not. And I think the key word is "probably" here.

No indication, and this is terribly important, no indication from any source that would lead us to believe that indeed there was an exchange of any kind. And we were prepared, of course, to talk in terms of materiel or even with respect to money or other considerations of equipment.

Every lead that we ever had was explored. And it was explored to a definite conclusion as to whether it was valid or false or whether it required further exploration. But we did not leave any stone unturned, in my opinion, during the four years that I had anything to do with it.

This is an extremely sensitive subject. And I am well aware of that. And there are all kinds of reasons and contributing information that give nuances to this problem. The classification of MIA and KIA and POW, of its very nature, it overlaps. I am not exactly sure, and I have no knowledge of the history of how these three classifications came about. But they certainly have caused considerable confusion.

Internally, from a staff organization, there were two avenues that might be used with respect to this subject of MIAs and POWs. There was the details that relate to families and the contacts that should be made in that regard with respect to those families. And certainly Roger Shields and the ISA group and he functioned as the assistant to the deputy, they were in contact with that family element.

So far as the public press is concerned, that fell in another direction. And that was in the public affairs section of the Department of Defense. And Jerry Friedheim was the assistant secretary there, and General Chappy James was the deputy at that time.

I would remind the committee that Chappy James was in Vietnam for several years, was a much-decorated fighter pilot, and had a personal interest in a lot of the names that you have on your MIA/POW list. So he had a personal interest in pursuing this.

Twenty years later is a long time. And I think that one immediately says to themselves, if they think about it, well, why are we going through this agonizing situation. In my judgment, and I have carefully kept up with the testimony that's been given and reports that are in the public domain that come out of your committee, and, in as far as I can tell, there really is no new evidence. It's a lot of rehashing of old information.

Anyway, there are lots of second sight. There's a lot of hindsight. There's a lot of kibitzing. And, in my judgment, very little substance. So, I'm happy to be here. And if I can shed any light on the subject, I'll be most happy to do so.

Thank you very much.

Vice Chairman SMITH [presiding]. Dr. Shields.

STATEMENT OF ROGER E. SHIELDS, PH.D., DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL ECONOMIC AND POW/MIA AFFAIRS, DEPARTMENT OF DEFENSE, 1971-1977

Dr. SHIELDS. Thank you very much.

I would like to make just a couple of comments motivated by some things I heard here earlier that I think are important to make. And that will only take about 30 seconds.

First of all, I will comment on the distinction between prisoner of war, missing in action, and the term missing, which I heard used in the exchange with Senator Dole. If you'll go to the Missing Persons Act, which governs the status between prisoner of war, missing in action, and killed in action, you will find that the term miss-

ing is used to designate both prisoners of war and missing in action. That is to indicate that those men are missing from duty.

And so, in those days, and today even, when I speak of these people, I use the term missing to indicate both prisoners of war and missing in action. And I would point out that with men who had been carried as prisoner and who did not return essentially in the same position in terms of where we were as the missing in action but listed not having them as missing in action, it was a great deal of comfort to the missing in action to know that their families were not forgotten and that their loved ones were not forgotten when the term missing was used. And the prisoners of war, those who had been listed as prisoner of war and who did not return, understood that.

I'll also have to say, Senator Smith, that I am not aware of any changes of status from prisoner of war to missing in action. You commented about the men that I had said had been sighted on the ground, people that we thought had been captured. If they were in a prisoner of war status, I don't believe that their status was ever changed to missing in action. And they would have been held as prisoner of war until a status review had resulted in a change to killed in action because of remains identified or bodies which were never recovered.

So, when you said those people were on a list of missing, it would have been in the term that we used, the missing, to cover both missing and missing in action. And it's very important to note the distinction between prisoner of war and missing in action. And I think it's very important for this committee to understand these technical terms, especially this far into this investigation, because we use that term of missing to cover both categories. And if you've been reading documents, and you've been reading me talk about the missing, about me talking about the missing, and you don't understand I was speaking about both, you may very well have had serious misconceptions about what I believed and what I felt.

So, that's a little bit of a pointer on that particular issue today. I would also like to point out that the—

Chairman KERRY [presiding]. I don't really know what you said.

Dr. SHIELDS. What I said, Senator Kerry, and I'll explain it once more, under the Missing Persons Act which governs the missing in action definition, killed in action, and prisoner of war, those who are classified as missing in action and prisoner of war are both described as missing persons. So when Senator Dole was talking about missing, and you talked about missing because you had read about missing, not missing in action, but missing, that term was covering both prisoner of war and missing in action.

[The prepared statement of Dr. Shields follows:]

PREPARED STATEMENT OF ROGER E. SHIELDS

Mr. Chairman and members of the Committee, I appreciate very much the opportunity of appearing before you once again. You have asked that I address specific questions which you have posed, and I am pleased to do that. In answering these questions, I will make use of papers, at least some of my files originated while I was associated with the prisoner and missing issue while I served in the Department of Defense, which have just been made available to me as a result of your action to declassify my files. I will also make extensive use of testimony which I gave to the Congress in the course of my official duties. I noted in my first appearance that there was little I could add to the question of our missing beyond what I had said on the public record many times before. I find that statement confirmed to an ever greater degree as I review the memoranda and statements which I made many years ago. It is obvious, though, that these statements need to be repeated in the interest of informing and reeducating those who either were not interested in this problem when the original statements were made or may have forgotten what the record says. For those who are interested, and there are many today and I am sure there will be many when this Committee's investigation is over and the report issued, the earlier public record is voluminous and speaks for itself.

Statement of Roger E. Shields

Response To Questions Posed by the Select Committee on

**POW/MIA Affairs
United States Senate**

September 24, 1992

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In any event, Mr. Chairman, I am grateful for your action in declassifying this material which you have made available. I made a similar recommendation to declassify in testimony before the Congress in 1979 or 1980. I am sorry I don't remember the specific date. If it had been done then, we might all be more enlightened today. Declassification entails penalties as well as gains, as, for example, when vague, unsubstantiated and uncorroborated material is made available without analysis. Nevertheless, the benefits now far outweigh the drawbacks. My only concern, Mr. Chairman and members of the Committee, is my belief that you have not gone far enough. I will elaborate on that statement in a moment, as I answer your questions. I will turn now to the issues you have asked that I address.

1. POW Expectations

(a) Please describe the sources used by the U.S. to gather information concerning American POW/MIAs.

Answer: Many sources of intelligence were used. Friendly governments, including some with access inside North Vietnam, were asked to make initiatives on our behalf and for any information which they might have about our missing. Returned prisoners were a particularly valuable source of intelligence. Aerial reconnaissance

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and electronic collection methods were also used, Ralliers, captured enemy prisoners and indigenous residents to whom we had access were also sources of information, as were refugees from areas of interest to us. Agents were also employed. Foreign newspapers, magazines and radio and television services, particularly in Eastern Europe, were monitored closely, as were all sources of public news in North Vietnam. Americans who traveled to enemy areas in Southeast Asia were also asked for assistance in obtaining information about missing Americans. Members of Congress also provided occasional intelligence information. U.S. intelligence services utilized all of the devices at their command.

(b) Please describe, more specifically, the sources of information concerning Americans lost or taken captive in Laos, and what those sources revealed at the time of Operation Homecoming.

Answer: U.S. agents were barred from operating in Laos by the Cooper-Church Amendment. Captured enemy soldiers, aerial reconnaissance and electronic collection devices were used to provide information. Friendly indigenous agents were also tasked with gathering information about Americans, as was the Royal Lao Army. Friendly hill tribesmen were also asked for help. The Representative of the Pathet Lao in Vientiane was also asked for information. The CIA may have had other sources.

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The intelligence concerning Americans missing in Laos at the time of Homecoming provided no specific information on Americans who did not return. Less than ten Americans were carried as prisoner in Laos at the time of Homecoming, and the last hard information on those individuals was dated to such an extent that it offered no clues as to whether these individuals were still alive in April 1973, much less where they might be held. There had also been persistent reports about the deaths of American prisoners in Laos, but these could not be confirmed. For those carried as MIA, nothing other than the initial circumstances of loss was known, and in only one or two cases were there indications of possible capture. In most cases very little was known about even the specific circumstances of loss once an aircraft reached the ground.

(c) Please describe the reaction of the military services and Department of Defense to the prisoner lists turned over by North Vietnam in behalf of itself, the Viet Cong, and the Pathet Lao.

Answer: The reaction was mixed. There was gratification that men like Colonel Floyd Thompson, the longest held American, had survived his captivity and was going to be repatriated. There was also a sense of satisfaction that some men who were carried in a missing in action

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status were also returning, and that one American listed as killed in action had also survived. There was a great sense of disappointment, though, that the lists did not clarify more cases about those whom little was known. As it turned out, there were relatively few surprises in the lists. There was a great sense of disappointment and sadness about those listed as having died in captivity which were new to us, and a strong sense of concern about those whom we carried as prisoner but for whom no accounting was given. There was an immediate recognition that the lists did not conform to what we had believed to be the case concerning a number of our men.

(d) Please describe efforts made, and strategies considered and used, between January 27 and March 29, 1973 to obtain a complete accounting from North Vietnam and Laos concerning American POW/MIAs, including your own role in these efforts.

Answer: Those efforts and strategies are a matter of public record, and have been reported to Congress a number of times. I will submit for the record a memorandum which was sent Members of Congress February 2, 1973, outlining the provisions for an accounting contained in the Ceasefire document and the means for implementation of those provisions in the Four Party Military Team (FPJMT) forum. It is in this forum that the accounting

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efforts occurred for the period in which you are interested. I will further submit for the record testimony which I gave before the Committee on Foreign Relations of the Senate. This testimony contains a day by day chronology of U.S. efforts to account for the missing and repatriate the remains of the dead. You will note that our efforts focused on an exchange of information and attempts to set up a mechanism for an accounting.

I had no direct role in the FPJMT. My office supported that effort through the provision of data and plans which had been coordinated throughout the Department of Defense and with the State Department to obtain the authorities necessary, such as access to suspected detention sites and locations of loss, and to establish the organizational mechanism for coordinating these efforts with the Communist governments.

2. Post-Homecoming

(a) Please describe any role you may have had in formulating U.S. policy, statements or negotiating strategy concerning American POWs/MIAs subsequent to Operation Homecoming. What was your reaction to the President's statement on March 29, 1973 that "all our POWs are home." Answer: My role was initially that of Assistant to the Assistant Secretary, International Security Affairs (ISA) and later as Deputy Assistant Secretary (ISA) for Inter-

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national Economic Affairs. In both of these roles I served as Chairman of the Prisoner of War and Missing in Action Task Group. As such, I served as a principle advisor to the Assistant Secretary, ISA, on PW/MIA affairs. I also served in that capacity as a principle advisor on these issues to the Secretary of Defense.

I coordinated PW/MIA affairs among the Military Services and outside the Department of Defense. I also reported frequently to the Secretary and Deputy Secretary of Defense as well as the Assistant Secretary, ISA. Your Committee possesses and has examined numerous reports and suggestions which I made to these offices. Public pronouncements of policy which I made were coordinated positions of the Department of Defense. Some which I originated survived in a virtually unchanged state. Some were amended. I also made suggestions concerning negotiating strategies and field activities to resolve the status of the missing. My reaction to President Nixon's statement was one of dismay, as I have stated before. The dismay was not because I believed President Nixon was unaware that some men we had carried as prisoner had not been repatriated. To the contrary, I met with President Nixon shortly after the completion of the repatriation phase of Homecoming, and heard him express his resolve to achieve an accounting for those who did not come home. My dismay rather, was because I knew what the reaction of the families would be;

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a reaction which has been duplicated by this Committee. President Nixon, in my view, was simply expressing the gratitude of the President of the United States for the successful repatriation of those men who did return.

(b) Please describe any role you may have had in the decision to reduce the size and scope of the POW/MIA Task Force operations following Operation Homecoming, and the reasons for that decision.

Answer: It was obvious following the repatriation phase of Homecoming that the efforts, and management and organization of those efforts, regarding PW/MIA issues needed to change substantially. The PW/MIA Task Force had completed a major part of its duties. These related to such things as planning for the reunion of returnees with their families, planning and implementing programs for the medical treatment and examination of returnees, planning debriefing procedures, coordinating such apparently routine but in reality complex issues such as settling pay and social security accounts, and similar duties which had been completed. The focus of attention needed to be shifted to intensified efforts at accounting for those who did not return. The accounting was not going to be accomplished in the halls of the Pentagon, but in the field, where our men became missing. That required a reorganization of Defense Department efforts. Contrary to some views, which I understand from those who have a superficial acquaintance with these issues, but not from

those who know this area well, that this represented a deemphasis of DOD efforts to account for the missing, it represented a substantial increase in manpower devoted to this effort.

The Four Party Joint Military Team (FPJMT) located in Saigon and tasked with ongoing negotiations to obtain an accounting, had fourteen officers and six civilians assigned to it. This represents by itself a multiple of those assigned to the PW/MIA Task Force. The Joint Casualty Resolution Center (JCRC), located in Thailand, was established with a complement which completely dwarfed the staffing of the Task Force. It should be noted as well that the Task Force was only downsized, and remained in existence. In fact, the Task Force was enlarged in September, 1973. The indisputable fact is that after Homecoming, Defense Department resources allocated directly to PW/MIA issues increased dramatically.

Numbers of staff alone do not express the increased emphasis on accounting issues. One of my senior staff, Col. Vincent Di Mauro, an Air Force officer and pilot, was reassigned from the PW/MIA Task Force to the JCRC as Deputy Commander. Captain Ray Vohden, a returnee, brought his expertise to the PW/MIA Task Force when he was assigned there after his reintroduction to the Navy.

(c) Please describe any role you may have had in the "change of status" review process subsequent to Operation Homecoming.

Answer: I was never part of the status review process.

The question refers to change of status, and that presupposes the result of the review, which I believe is incorrect. The Service Secretaries, and no one else, are charged by law with making status reviews. That procedure was never interfered with by my office. Your colleague, Senator Warner, was Secretary of the Navy during much of the period with which you are concerned, and I am sure he can attest to the way the process worked in the Navy.

Shortly after Homecoming, a court imposed injunction in response to a lawsuit placed severe constraints on the ability of the services to undertake status reviews. Next of kin, for example, many of whom desired reviews, could only obtain one by making the request themselves. This was a source of great anguish for wives who felt that the responsibility of the Military Service had been placed on their shoulders. If the review resulted in a presumptive finding of death, many wives felt that they had been placed in the position of officially declaring their husbands dead. That proviso of the Court often placed wives and parents in a position of conflict. The injunction had other inappropriate effects. In one case, for example, the remains of the son of one of the plaintiffs were recovered and identified with the Service Secretary unable to declare the individual dead.

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The case was resolved when the law governing status changes was declared unconstitutional. With certain procedural changes, however, the law could be implemented. The Deputy Secretary asked that status changes made under the amended procedures be coordinated with my office for the purpose of ensuring that the process met the new requirements.

No attempts were made by me or anyone in my office to either initiate or determine the results of status reviews. The Deputy Secretary also asked that my office be informed of changes in status from prisoner to missing so that I could inform him of the basis of the change in detail. As I recall, no such case ever occurred.

3. Subjective Views

(a) Please provide your personal evaluation of U.S. negotiating strategy on the POW/MIA issue, taking into account...

- 1) The French experience in negotiating with Vietnam;
- 2) political and other pressures operating on the negotiators of either side; and
- 3) the level of knowledge provided by U.S. sources concerning the number, identity and location of American POWs.

Answer: The French experience showed the difficulty of negotiating with Vietnam. France maintains that it left no prisoners in Vietnam. An examination of their experience indicates that Vietnam presented France with a take-it-or-leave proposition.

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The obvious political imperative of North Vietnam was conquest of the South. They never approached the missing issue as anything other than part of that objective. It was certainly never treated as a humanitarian issue. There is no doubt in my mind that military force, represented by the mining of Haiphong Harbor and the bombing of the North by B-52s, was the instrument which brought the men home in Operation Homecoming. This suggests to me that only military action, or at a minimum the credible threat of military action, could have allowed us access to the areas where our men were lost or might have been detained. That clearly was not a possibility. The U.S. Congress cut off the funds which could not have guaranteed South Vietnam's survival, but which surely guaranteed its defeat. You asked in a recent TV appearance on Nightline if Congress had ever been informed of North Vietnam's noncompliance with the accounting provisions of the Ceasefire Agreement, and the answer, as I will note more fully in a moment, is yes. There was no cry of outrage that would have supported the threat of military action, much less action itself. I had to explain in detail why the JCRC was manned to a large extent by Special Forces soldiers in an effort to reassure the Congress that the JCRC would not be involved in unauthorized military actions. A very prominent senator, no longer living, whom I greatly admired and respected, asked me if our JCRC troops were involved in intelligence gathering actions in Laos, and issued a public statement

that he was satisfied we were not.

When the ultimate conquest of South Vietnam began, it was clear that no U.S. military force would be used to oppose it. The preservation of an independent South Vietnam and noncommunist Laos, of course, is why our men became missing in the first place.

These comments do not address the major question we must consider, which is whether military action to obtain an accounting is appropriate in the first place. Contrary to the views of this Committee, we could not in April, 1973, and I believe cannot today, point to men whom we knew were alive and being held against their will. What camps would we have raided, and who were the men who would have been the target of those raids? How many lives would we have been willing to lose, and how many new missing in action would we tolerate, to discover empty camps, or to find graves and recover remains?

The physical task of an accounting is daunting, but with cooperation from the countries where our men were lost, it could have been accomplished to the extent that our means and techniques would have allowed. Substantial progress could have been made even if we were not allowed to do the work ourselves. I am satisfied that the Chinese provided us with a reasonable accounting. I would like to submit for the record the communication of the PRC to our government concerning the accounting the Chinese provided

us for our men missing in PRC territory.

The key to an accounting was cooperation from North Vietnam, and we never received it. Mr. Chairman, you traveled to Vietnam, and if history is any precedent, it will be shown information is available concerning our men which you were not provided. Are all those who have gone to Vietnam for the purpose of achieving an accounting and returned home with little of a concrete nature to show for it incompetent? I don't believe so. The Woodcock Commission came back with the remains of a number of men and information about another, but as we know now, Robert Garwood was nearby and his situation not revealed to the Commission. We continue to make progress, but I do not see the major breakthrough we have sought for so long.

(b) Please provide your personal evaluation of U.S. efforts after the signing and exchange of lists to demand a fuller accounting of American POW/MIAs.

Answer: I have pointed out the success of our efforts, in a relatively short time, to achieve an accounting for men missing in the People's Republic of China. I have also provided for the record a detailed list of U.S. actions to achieve an accounting. In my earlier testimony I commented on how the last American soldier killed in Vietnam in a U.S. initiated action was involved in an effort to account for our missing.

Given our position in Vietnam and the inability of the U.S.

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to enforce the overall Ceasefire Agreement, and other U.S. goals in the region, I am absolutely convinced that very little more could have been done in the years immediately following Homecoming to achieve an accounting for our missing.

(c) Please provide your personal assessment of U.S. Government openness and frankness with the American people on the POW/MIA issue.

Answer: Mr. Chairman and members of the Committee, I view this as the most important question you have asked, and for that reason I will answer in some detail. Everything else that was done rested on a foundation of full disclosure and complete candor in every aspect of this humanitarian issue.

Was the Government open and honest with the families of our missing, the Congress and the American people? My answer is an unequivocal and unqualified yes as far as the period covering my own tenure in the Department of Defense is concerned. You will understand that I cannot speak for other periods.

I answer yes knowing full well that I can hardly be the judge of my own performance. You and others will make that judgment. I only ask that you examine the record in detail before that verdict is reached. For example, you asked, Mr. Chairman, during your recent appearance on

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Nightline whether the Administration had ever informed the Congress about violations of the Ceasefire Agreement provisions covering the accounting for the missing. The implication which I drew from that question was that Congress would certainly have made some response to violations of the Agreement and noncooperation in our own efforts if it had been aware of the problems we encountered. The answer to your question is an important one Senator Kerry, and one that every person concerned with this issue should know by heart. It goes to the heart of the question of honesty and openness. The answer to this question also provides valuable insight into the entire area you are investigating. Had I been on Nightline with you, as I was invited to do, I could have provided you with an answer. That answer is yes. You will find voluminous and detailed testimony devoted to this question before the House of Representatives in December, 1973, before the Senate in January, 1974, in a complete and detailed fashion in October, 1974, and in numerous letters to individual Members of Congress. Your Committee has many of these communications. An example, which I will submit for the record, is a lengthy and a detailed report which I sent to Congressman Melvin Price, then Chairman of the House Armed Services Committee, in March, 1975. The response of Congress to all of these communications is also a matter of public record, and I leave it to this Committee to judge the appropriateness

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or adequacy of the response of Congress to these reports.

I understand that this Committee believes that the Government was less than open and forthright in the 1970s.

Senator Kassebaum expressed the view that if the Administration had been more forthright earlier in this episode, the problem we have today would not exist. I only ask that you examine all of the efforts we made to communicate with the American people and their representatives in Congress in detail before you pass judgment on our actions. I urge you to examine such documents that are part of the public record as I have mentioned in detail.

In many ways I view the effort to convince the American people of the honesty with which this issue was treated as almost impossible in the short run. In the longer run carefully researched books written by historians and others will, I am confident, validate my own views. But millions of Americans who viewed Nightline will believe that Congress was never informed about our difficulties in obtaining compliance with the accounting provisions of the Ceasefire Agreement.

Let me illustrate the problems I have more fully. On August 18 of this year, one of the nation's most eminent and widely read newspapers published an editorial which said, and I quote, "From 1973 on, official Washington misrepresented what it knew and shrugged off new leads,

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betraying its obligations to the families of the missing and to the public at large." It then went on to state that even now no apology or explanation for the "deceptions of Administrations past" had been offered. What was the basis for these statements? The editorial continued, and I quote, "But it's hard to justify the Nixon Administration's public closing of this issue while the trail was hot. In 1973, when Hanoi returned 591 American prisoners of war, the Pentagon's own records showed that hundreds more Americans had survived capture and were quite possibly still alive."

That statement, by a newspaper with a claim to greatness, is wrong and bears no resemblance to the facts at all. If this editorial had been in a tabloid picked up in a grocery store, the American people would understand, but it was not. How does an Administration counter this type of distortion and an apparently total lack of interest by the media in making even rudimentary checks of their facts? Incidentally, if this allegation were true, this Committee should launch a complete and thorough investigation of the Administration of Lyndon Johnson, because it was during those years that almost 60 percent of the casualties related to those prisoner, missing and killed in action whose remains were never recovered occurred. As you know, there were less than a hundred men carried in a prisoner status who did not return during Homecoming.

I do not know the specific names associated with your list of more than a hundred, whom the Committee believes were alive and left in Southeast Asia in 1973, but I am confident that many of these cases date back to the Johnson years prior to 1969. Many of these men had to have been carried as missing, without additional information available beyond that of their initial loss. If that is true, and if the editorial were correct, at least the Service Secretaries, or those advising them, during the Johnson years would have been guilty of deception in making the original status determinations.

Let me hasten to say that I do not believe that. The only evidence of error in those early years, in my own opinion, was the classification as missing of men who in reality died.

More recently, just a few days ago on September 16, a widely read team of syndicated columnists wrote, and again I quote, "Three hundred and fifty Americans believed by the Defense Intelligence Agency to be prisoners of war in Laos were finessed by the simple expedient of being declared dead." These assertions, too, are simply wrong, and they are offered with no proof whatsoever. For this to be true would require that virtually every man listed as missing in Laos had been taken prisoner, or else that men listed as missing in North Vietnam or South Vietnam had been moved to Laos, or that men listed as killed in Laos had been entered into that status either erroneously

or with intention to deceive. Is any of this credible? I also note in passing that Senator Smith expressed the view in an exchange with Ross Perot that the deceptions in this issue may have not reached the Presidential level. If this article from which I have quoted is true, then it did indeed reach the Presidential level. Admiral Moorer is also implicated in this article as at least having been informed about this writeoff of our missing. He has testified before this Committee, and I heard no reference to this matter at all.

I do not know about proposals to stop the withdrawal of U.S. troops in March, 1973, but I know the allegations about the three hundred and fifty prisoners are plain, dead, wrong. No proof was offered for the assertion, and it is very difficult, I have found, to rebut accusations anchored in nothing more than thin air. The saddest aspect of these irresponsible articles is their devastating impact on the families of our missing.

A major issue of DOD's honesty and candor has to do with whether the DOD reported honestly on what it knew of our missing in April, 1973. Before I turn to that issue, let me address treatment of families. Defense Department policy was to inform families fully of the facts which could reasonably be associated with their missing loved one. You should be aware that it was not policy, and this was widely known-you will find it restated in the Price memorandum-to provide families with general

and vague intelligence reports.

In this vein, I must say that the families of the missing with whom I have communicated recently have heard reports of document shredding on the part of your Committee. Many of these families also believe U.S. prisoners are alive in Southeast Asia now, based on the condition of Robert Garwood when he returned to the U.S. and on persistent reports of live prisoner sightings which continue to this day. This Committee, I am sure, will encounter first hand some of the difficulties we faced with credibility in the 1970s. These families will not easily accept, nor from what I heard of his testimony, will Ross Perot, that Americans were left behind on someone else's watch, but are no longer there now. Senator Smith, for one, has expressed his belief that U.S. prisoners were alive as recently as 1989.

I also know that some, if not all, of the Members of this Committee are either certain or at least have grave doubts about Department of Defense actions in 1973 and later. Your comments about a "conspiracy of silence" have been widely quoted, Senator Kerry.

If a person believes that a conspiracy existed, it must be very frustrating indeed trying to find evidence of its existence. Senator Smith expressed that frustration during an exchange with Ross Perot when he indicated that no documents have yet been found demonstrating the existence of a conspiracy.

In the absence of documents, and you will note the by now famous Eagleburger memo that said there "may" be prisoners left in Laos, and that possible moves "should only be contemplated if we are reasonably strongly convinced that the Pathet Lao hold POWs," it must be frustrating indeed for those who want to believe there was a conspiracy. How can a "conspiracy of silence" be pinned down? Think for a moment of what a "conspiracy of silence" involves. You would have to include six Presidents and in all likelihood their Vice Presidents, Members of Congress who have investigated these issues and to whom frequent reports on this issue were made, myriad Secretaries and Deputy Secretaries of Defense, NSC staffers over many years, many Service Secretaries, Ambassadors, Secretaries of State and their staffs, innumerable members of the Military Services, including numerous Chairmen of the Joint Chiefs of Staff, many Service Chiefs, Assistant Secretaries of Defense and State, members of the PW/MIA Task Force and Task Group, heads and numerous staff of the Intelligence Agencies, members of a Presidential Commission, the men who debriefed the returnees and lastly, the returnees themselves. It boggles the mind that all this could happen in the first place and could have endured over two decades. And especially in the age of the whistle blower. And all for the purpose of knowingly abandoning American servicemen. I know of two whistle blowers who worked at the NSC. I

find their stories unbelievable, and I have asked for an evaluation of their testimonies, but have heard none. I repeat that request now.

Most especially, is it credible that the men who returned, many of whom endured more than five years of harsh captivity, and who asked repeatedly about several foreign military comrades who were not released with them, would abandon their own comrades in a "conspiracy of silence." If all this seems unbelievable, perhaps it is because it is. I suggest, Mr. Chairman and Members of the Committee, that you examine seriously the possibility that there was, and is, no conspiracy.

Senator Robb asked a very important question, I believe, in this area on June 25. He asked why no one in the intelligence community stepped forward to refute policy statements and statements to the press that we had no current indication of Americans left in captivity after the repatriation of men in Operation Homecoming. I answered that question, but I want to make my answer clear one more time. Because they had nothing which they could use to refute those statements. Why? Because those statements were based on intelligence information. Men of great integrity like General Vernon Walters did not lie when they said they had no indications in April, 1973, that Americans were still being held captive in Southeast Asia.

I was accused in my June 25 testimony of being disingenuous, and it was reported in those words in the press, when I maintained that my April press conference was not a statement that all those who did not return in Operation Homecoming were dead and was not contradicted by a May memorandum which I wrote. Mr. Chairman, the Committee and those present heard two and a half lines of that press conference out of almost 16 pages. Had that important press conference tape been aired more fully it would have shown that I said clearly and unambiguously in the next lines that some men whom we carried as prisoner did not return, that we did not accept the lists we received as an accounting for our men, and that if men were yet alive, for whatever reason, we could find that by implementing the accounting process. A few pages further on the Committee would have heard me say that the government was not saying that no men could be expected to return from Laos.

Regarding the May 24 memorandum in which I discussed the fact that the April statement was no longer accurate, let me emphasize now something which I stated explicitly in that memorandum. My April 12 statement was accurate and factual when it was made. That is the last sentence of the first paragraph. Senator Smith indicated during Ross Perot's testimony that I was uncomfortable with my April 12 statement when I made it. I was not then and I stand by that statement today. The reason it became

inaccurate was because on May 7, 25 days after I made the statement, another American flyer was shot down and captured. Not because, as I am sure you thought, Senator Kerry, that men had been captured in Laos before the statement was made. Those who heard the DIA analysis of that February loss can understand why I had doubts about the survival of any crew members, and why I could not tell their families in April that I had indications their loved ones were alive.

That memorandum also contained a reaffirmation of the policy that the Defense Department did not know whether any Americans were alive in captivity in Southeast Asia after the repatriation of our men in Operation Homecoming. I quote "with your concurrence I will maintain the position that we do not know whether those now unaccounted for are alive or dead." A great deal of confusion could have been avoided had we discussed that memorandum in detail. When I wrote that memo, I had no way of knowing that it would become part of the public domain in 1992, almost 20 years later. That memorandum also said, "we have always been careful to present the case honestly and forthrightly to the families." That was obviously not written for self serving purposes.

Senator Smith also expressed frustration, as I have noted, at not being able to find the internal documents in the

1973 period that would show the smoking gun used to write off Americans who were left in Communist prison camps after April, 1973. I can understand that frustration because those documents are not there, and will never be found. And it is not because those documents were shredded; they simply never existed because the missing were never written off. They were never declared dead in 1973. I find it curious that when it is said that the missing were declared dead in 1973 no one ever uses my words. Why? Because my words don't say that.

I have read in recent weeks the newspaper accounts of the great revelation that former officials recently revealed that some American military who had been carried as prisoner of war did not return during Operation Homecoming and were unaccounted for after lists of prisoners and missing were exchanged. You seemed convinced, Senator Kerry, on June 25, that I never expressed the view that any Americans could be alive in captivity until 1976, in my testimony before the Montgomery Committee. I have just quoted a statement that I made to that effect April 12, 1973. Let me cite just a few more obvious examples. I will quote from testimony I gave before the Subcommittee on National Security Policy and Scientific Developments of the House of Representatives May 24, 1973, just a little less than a month and a half after my April 12 press conference. I said, "While we are grateful for the return of these men, our joy and sense of accomplishment are tempered by

the fact that others, listed by our Government as missing and captured, did not return." A few pages further on in that testimony I said, "As for those who are thought to have been captured alive but who have not returned, let me say that this is perhaps the most agonizing and frustrating issue of all."

"These are the cases of men who were seen on the ground or whose pictures were released subsequent to capture but who, for one reason or another, have not returned and for whom the other side has yet to provide a satisfactory explanation."

The memorandum to Congressman Price contains similar statements. Many others were made. The fact that some men listed as prisoner did return in Operation Homecoming is news only to those who are not familiar with this issue.

As you can tell, I am concerned about having our record on openness and candor evaluated by a press which today is totally unaware of the past record and has not been motivated to do some investigative reporting.

Anyone who saw the recent 20/20 television program, would have the impression, as at least one of my brothers did, that at best we may well have not done our jobs very well, and may have been dishonest. My brother did not know, and I am sure almost all of the millions who saw 20/20 did not know, that the photo in which men lost in February, 1973, were identified, was a photo which the Department of

Defense received in 1968, and that all of the men shown had returned safely to the United States. Judge us by a general impression, if that is your desire, but base that impression on specifics. Did we mislead Congress? Did we mislead the families of these men? Did we mislead the press?

I repeat that nowhere, Mr. Chairman and Members of this important and distinguished Committee, is the issue of candor and honesty more important than in the area of what was known, and what has been learned since that time, about the men for whom no accounting was or has yet been received and where, in this critical area, we have a striking and remarkable conflict as to facts and conclusions.

On June 25, five individuals, all being candid and knowledgeable in the area, including one who is now an employee of the Senate, testified one after another before this Committee that they had no indication of Americans alive and in captivity in April, 1973, and thereafter, with the exception of Innet Kay, Charles Dean and the Australian, Neal Sharnon.

A House Select Committee spent fifteen months looking at every aspect of the PW/MIA issue. Regarding men left behind in captivity, their conclusion was, and I quote, "no Americans are still being held alive as prisoners in Indochina, or elsewhere, as a result of the war in Indochina."

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A Presidential Commission composed of distinguished Americans, including Leonard Woodcock, the Chairman, Senator Mike Mansfield, Congressman Sonny Montgomery, Marian Wright Edelman and former Ambassador to Laos, Charles Tost concluded, and I quote, "There is no evidence to indicate that any American POWs from the Indochina conflict remain alive."

Can anyone question the integrity and independence of these individuals? Was their preparation for this task deficient? At least some, and perhaps all, of the briefing papers used to provide background information to the Commission are in the hands of your Committee, Mr. Chairman. What did the Defense Department know that was not passed on to this group?

In January, 1977, Walter Slocombe, then Principal Deputy Assistant Secretary for International Security Affairs, wrote in a memorandum to Defense Secretary Harold Brown, "There is no reliable evidence to indicate that any American servicemen are alive and being held against their will as a result of the Vietnam War...."

What new and critically important information was unknown to these people who concluded no Americans were left prisoner in Southeast Asia after April, 1973? That some men carried as prisoners did not return during Operation Homecoming? I believe I have demonstrated conclusively today that this fact has been widely known since April,

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1973, by those who followed this issue. I must state for the record, and it is a well known fact to most who have followed events in this area, that I disagreed with the conclusions of both the Presidential Commission and the Montgomery Committee. My position was, and still is, that I do not know if any men remained as prisoners after April, 1973. Still, I understand why those conclusions were reached.

I confess that I do not understand the conclusions reached by those, including this Committee, who believe my April statement was wrong.

Admiral Moorer, the Chairman of the Joint Chiefs of Staff at the time, who testified that he had an assistant charged with keeping him fully informed on this issue, believed that we may have left someone in captivity. Because he had evidence or intelligence showing this? No. Rather it was because of a basic distrust for the North Vietnamese. Should I have said in April, 1973, that based on my distrust of the Vietnamese, I had indications that men were still captive in enemy prison camps?

I have heard General Eugene Tighe, former head of the Defense Intelligence Agency testify that we left men behind, and it seems evident to me that this Committee places great emphasis on his report and his testimony. I know and respect General Tighe, but frankly, I do not understand his testimony. On June 25, 1981, General Tighe

testified on this same issue before Congress. I quote from his testimony. "Based on detailed research efforts utilizing reported information, confirmed data, and all intelligence collection disciplines, we simply cannot professionally say—frustrating as it may be—that we know in fact that Americans are being held against their will there." In the question and answer session, the following exchange took place:

Cong. Solars: Is it the conviction of the DIA that there is in fact at least one American being held against his will in Indochina?

Gen. Tighe: My personal conviction and stated assurance is that there is at least one American being held against his will in Indochina. I believe this mindset is necessary to motivate the personnel involved in the POW/MIA effort. This motivation, to retrieve the living and the dead, was also necessary throughout all of the wars.

In addition to that, of course, I have a great deal of faith in the means by which we interrogated and cross-checked the testimony of the undertaker who passed his tests for veracity on the remains issue, and who also identified live Americans.

Mr. Solars: Well, I would like to come back to that in a record. But, I gather then essentially that that statement is an expression of hope rather than a statement of fact.

Gen. Tighe: Generally speaking it is that. It is a personal conviction, but it is an expression of hope necessary to motivate the effort to keep trying.

Then General Tighe apparently offered a more complete statement in closed session. I have no way of knowing what he said, but whatever it was, the Committee which

received that testimony does not seem to have been galvanized into action by it. What did General Tighe learn after that testimony which caused him to change his mind? Whatever it was, I must point out that it was not available to me in April, 1973. Because of my curiosity about the Tighe Report, I spoke with a very good friend, General Robinson Risner, who reviewed that report. He also believes now that we left prisoners behind. His belief is not based on specific intelligence, though, but on a comparison of the relative number of men who were repatriated from North Vietnam and Laos. At this point I want to note a fact which may be pertinent when we speculate on how many prisoners might have been left in Laos. If an airman was downed in Laos, he had a significantly greater chance of returning to U.S. control than if he were downed in North Vietnam. There were 776 combat rescues by the Air Force in Laos and only 174 in North Vietnam. The incontrovertible truth is that those who were not rescued in Laos were the far more difficult cases to assess and where the chances of survival were apparently much lower in the first place than for those downed in North Vietnam. Having said that, I must express my dissatisfaction with speaking in terms of vague, general numbers. Those who are missing have individual identities and specific facts associated with their cases. I stated on June 25, in testimony before you that it is time now that we

talked about individuals, and not about "hundreds" or "350" prisoners. I will address this issue again in a moment.

I also heard the testimony of General Perreote, another former head of DIA, who believes men were left behind. His statement also puzzles me. He offered no specifics and his view is not supported by the analysts who worked for him. Shouldn't we hear specific reasons for his views?

I also heard two officials of the Reagan Administration express their view that Americans were left in captivity. Are there specific cases which they can cite? They worked in this area at a time when live sighting reports were far more frequent than in my day, and at a time when frauds and hoaxes were much more prevalent as well. It is my understanding that military action was contemplated during their time in office. Why was it not carried out? The principle and stark fact remains that during their time no smoking gun, no significant new information, was surfaced to demonstrate Americans were still alive in Southeast Asia.

Regarding this Committee's announcements, about men left behind, I must also express my bewilderment. You offer as a demonstration that we left men behind the actual return of one prisoner of war. I do not accept that description of him. The record again shows that this individual was identified long before he ever

returned as a deserter who may well have been alive after 1973. I will also say for the record that if he was a prisoner, he is the only one on record who was able to stroll into a building and pass a note to a foreign diplomat saying he wanted to go home and asking that it be delivered to U.S. authorities.

I am also puzzled by the paper which the Committee produced which identified some fifty-one individuals as having been identified by our returnees as Americans having been in the prison system but not repatriated during Operation Homecoming. That was certainly not the understanding I had from their debriefs, not was it of any of those who had access to those debriefs. I ask again, is it possible that almost 600 returnees, who were very insistent that something be done to repatriate several of their foreign military comrades who had been left behind after our men were repatriated would to a person seal their lips about their own American Comrades? Would these brave, gallant and dedicated men whose motto was "Return With Honor" have abandoned their own comrades-in-arms in silence, and would have maintained that silence to this day? You spoke of one individual, Mr. Chairman, Richard Van Dyke, during my testimony June 25. You did not repeat any details concerning his case, but indicated he had been identified by our returnees as a prisoner within the system. He was, and there were a number of others.

most of whom were reported as having died in captivity by their captors and by our returnees. Regarding Richard Van Dyke, he was grievously injured and as well as the returnees who were with him could tell, was in an extremely critical medical state when he was taken out of the prison system by his captors. He was never seen by our men again, and the men who returned reported that his captors said he had died. His remains have been returned, and the condition of those remains were consistent with injuries which, I have been told by doctors, could easily have been fatal if left untreated, and that his medical condition when he left our men, as reported by the returnees themselves, may well have been irreversibly terminal.

This happened in 1968. No Americans saw him after this date. Could I tell his family, and the American public, that I had indications in April, 1973, that he was alive? My answer is no. I could have told the American public, and I did, that man we carried as prisoner did not return in Operation Homecoming, and that we did not accept the information we had been given, or more accurately the lack of information, by the hostile governments as an acceptable accounting.

I apologize to the Van Dyke family if my comments have caused them anguish. I did it not to create additional anguish on top of the enormous grief which these families have already suffered, but to prevent old wounds from

reopening and adding to the burdens these families have carried for so long.

In this spirit, Mr. Chairman and Members of this Committee, I ask that you now address publicly the specific facts of each case which you feel demonstrate indications that Americans were alive in captivity in Southeast Asia on April 12, 1973. We have spoken in terms of vague, general numbers for too long. The precedent has been set in the fourteen cases which the Department of Defense presented to the press in Secretary Laird's dining room in 1972. Do the facts in the presentation, which I submit for the record, indicate those men were alive in captivity April 12, 1973?

A further, and in my view excellent, precedent was set by your Committee a few weeks ago when DIA analysts discussed the case of the EC 47 which was lost in Laos in February, 1973. If you are reluctant to use names, code the cases with numbers or letters. But discuss now, before the American people, these individual cases.

You ask about the honesty and candor of the Department of Defense and its officials in this sensitive area. How can I demonstrate that we were open, honest and forthright when the media today write stories with great revelations that at last the fact has surfaced that some men who were carried as prisoner in Southeast Asia were not repatriated in Operation Homecoming? Or when

editorials and columns are written with a complete disregard for the facts? With whom did these writers speak? What can we say when accusation is accepted as proof by a media which has forgotten what objective journalism is, and which has deserted our great tradition of investigative reporting? Mr. Chairman, you asked in a session of this Committee a short time ago how a final chapter to this sad episode in American history can be written. As I have said, I fear that may not be possible. The Committee's Chief Counsel asked me during my deposition if I had written a book about the prisoners/missing issue. I have not nor have any of my colleagues. Our interest were in doing the best job we could.

I have seen my own personal memos made available to the general public. I am not complaining. I do not believe this should become the general model for government, because it will stifle the honest expression of unpopular views and lead to self-serving documents written for public consumption. But in this area it is appropriate, and as you know, I advocated in congressional testimony that this be done more than ten years ago. I submit for the record my testimony making this request. I hope this Committee will itself follow the precedent which it has beneficially set.

I would make two further pleas, Mr. Chairman and Members of the Committee. If there is anything left to be declassified, please make it available to the public. I

would include in this the abolition of closed sessions. What needs to be said now behind closed doors about proposed ransom schemes, or anything else, for that matter? I just received a newsletter from one of the many organizations which purport to follow developments concerning the PW/MIA issues which said Mr. Barry Toll testified to this Committee behind closed doors. What purpose does that serve? We all know about Station Chiefs. I second Mr. Perot's suggestion that all of this be done in the open. Finally, I ask once again that you discuss the details of each case which shows we left men behind in captivity after April, 1973, in detail and in open session. Then the public can determine for themselves whether we were honest and forthright in 1973. I ask again, if any of the cases of the fourteen men presented in Secretary Laird's dining room in 1972 provide indications that they were alive in April, 1973? Are those cases included in your own list of those we left behind? Or do those cases show, as I believe they do, that we should have received an accounting of why those men did not return home with their comrades? It is important for the families of the missing and the public at large to understand now exactly what we knew in April, 1973. In this conjunction, Mr. Chairman, I welcome your Nightline statement that evidence a man was alive in 1970 does not constitute an indication of the same

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status in 1973. As I understand it, this represents a change of position on this matter. Anyone who watched the Committee's discussion of the February, 1973, EC 47 crash understands, I believe, why I had grave doubts about whether anyone survived that crash. And the same procedure can be followed for each man's case. I asked for that more than ten years ago, and I repeat that request today. These men and their families deserve no less.

MORE ON LAOS—AT END OF HOMECOMING

Mr. Chairman and members of the Committee, I realize now after watching earlier testimony this week that perhaps a basic primer on Laos is needed. I had thought that at this stage of the investigation this subject would have been worn out, especially in light of the strong interest the committee is apparently taking in Laos.

The first thing which should be remembered is that those whose names were on the list of prisoners purportedly under the control of the Laotians were in reality prisoners of the North Vietnamese. One man whom the DOD carried as a prisoner and captured in Laos was reported on the list of prisoners to be released from South Vietnam. He was downed in an area where he could in fact have been in South Vietnam.

That means that as far as men actually held in Laos are concerned, not a single person was released. As I hope you are aware, the Department of Defense carried only four individuals as prisoner in Laos who were not released. Of these individuals, I believe one was entered into a prisoner status mistakenly. Another one, a civilian, was last heard of directly as he escaped. He never returned to U.S. control, and the information available to the U.S. Government indicates that he was killed in the escape attempt. Of the remaining individuals carried as prisoner in Laos, the evidence of their capture and imprisonment is undeniable. After their initial capture, however, further reporting, and it was sparse, was negative about their continued survival.

The DIA believed, as I recall, that three other individuals may have been captured, although the services carried these men as missing. Of these men, the remains of one were found associated with the wreckage of his aircraft. His remains were repatriated to the United States where he was buried in Arlington Cemetery. I attended that funeral where his strong, gracious and valiant wife expressed her thanks to those who had persevered in determining the fate of her husband.

Of the other two, they may have been taken prisoner and were in circumstances where this was certainly possible, but we were unable to verify that, and nothing to indicate they ever entered a prisoner status was heard while I served in the Department of Defense. No one who was actually held in Laos ever wrote a letter that became known to the family or U.S. Intelligence. Photos of David Hrdlicka and Eugene DeBruin in captivity came into our possession and a short broadcast made by David Hrdlicka was also heard. All of this occurred substantially prior to Operation Homecoming.

Secretary Schlesinger testified this week that our intelligence information regarding Laos was good, and his testimony did not appear to me to be contradicted by Secretary Laird. If that is true, then it is clear that few men, and perhaps even none beyond those whose cases I have mentioned, were taken prisoner in Laos. This supposition is supported to some extent the greater of combat which in by far number rescues occurred Laos than in North Vietnam. The fact that an airman downed in Laos had a much greater chance of returning alive to U.S. control than one downed in North Vietnam is an inescapable, numerically developed fact. Many people have spoken to me in the past couple of days at their shock in learning that two former Secretaries Of Defense and the Chairman of the Joint Chief at the time of the Cease-fire believed we left prisoners behind and did nothing about it. They cite the opposite behavior of Elliot Richardson during Watergate. My reply is that when you have access to all of the information, to all of the intelligence, a gut feeling is not enough to keep soldiers in combat and aircraft flying missions where new losses are incurred, and a visceral feeling is all these men had to go by in April 1973.

During my tenure in the Department of Defense we analyzed our losses by location, type of mission, aircraft, service and other factors, and the simple fact that the proximity of Laos to our own air bases, the fact that the terrain was for the most part less densely populated, more rugged with fewer population centers and less well covered by the North Vietnamese military meant that we had more than four times as many combat rescues by the Air Force in Laos than in North Vietnam.

These are the reasons I refused to speculate about how many men we might expect to see return from Laos during my April 12, 1973, press conference. But the fact that we received virtually no information from Laos was also the reason that I did not rule out the return of some men from that country.

My own view is that the nature of the country and our own inability to operate there, imposed by Congress, severely limited the intelligence that we might otherwise have gained. As dedicated as indigenous agents may have been, they could never have been as motivated to develop intelligence on captured and missing Americans as our own men would have been. In some circumstances, of course, they

could operate under conditions and in locations which would not have been possible for Americans.

In any case, most of the intelligence about suspected prison camps or U.S. prisoners in Laos received in the Pentagon while I was there was vague and impossible to verify, and the fact remains that we knew, and I believe know today, very little about our men missing in Laos. I want to say very specifically that never at any time while I served in the Department of Defense, did we have anything, and I repeat anything, that could be used even remotely to support the idea that we knew there were 350 or 250 Americans alive and held prisoner in Laos. That is preposterous, untrue, and it does an extreme disservice to the families of men lost there to suggest otherwise. If any member of this Committee knows otherwise, the evidence should be spelled out in detail.

Chairman KERRY. Let's not play a technical-ese, bureaucratic game here. Why do we say POW/MIA?

Dr. SHIELDS. Senator, you were talking—

Chairman KERRY. No, no, no, wait a minute. Why do we say POW/MIA? Why do we say that?

Dr. SHIELDS. Because—

Chairman KERRY. Why don't we just say MIA?

Dr. SHIELDS. Because, Senator—

Chairman KERRY. What does POW mean?

Dr. SHIELDS. They were classified as prisoners of war.

Chairman KERRY. What does it mean, prisoner of war?

Dr. SHIELDS. It means that they were classified as prisoners of war.

Chairman KERRY. And we classified people as POW, did we not?

Dr. SHIELDS. Yes, we did.

Chairman KERRY. Because we thought they were prisoners of war. Correct?

Dr. SHIELDS. That's correct.

Chairman KERRY. And we classified people as missing in action because we did not know if they were prisoners of war.

Dr. SHIELDS. That's correct.

Chairman KERRY. There is a difference, is there not?

Dr. SHIELDS. Senator—

Chairman KERRY. No, answer my question. Is there a difference?

Dr. SHIELDS. Yes, Senator. Yes, there is a difference.

Chairman KERRY. OK. Prisoners of war is somebody who we think has been captured because we know he is and he is held, correct? Is that correct?

Dr. SHIELDS. Well, it was the best information the services had. But the point that I am making, Senator, when you see a list which says neither prisoner of war or missing in action, which was the comment that was made here—

Chairman KERRY. Well, it did not say missing person. It said missing in action. And it distinguished them from prisoners of war. You did in your own comments.

Dr. SHIELDS. Senator, I usually did. I thought I heard someone talk about those who were missing and listed missing.

Chairman KERRY. Well, I tell you, there is not an American citizen or a family that was sitting around, playing with whatever act is you have cited. They were thinking about prisoners, and they were thinking about missing.

Dr. SHIELDS. Senator, if you will go back and if you will look at some of the statements, when people were talking about those—I

just said that I never knew of a prisoner of war whose status was changed to missing in action. So, when he was described—

Chairman KERRY. OK. So when you have a big missing in action list, there should have been two lists, a prisoner of war list and a missing in action list?

Dr. SHIELDS. When he was described as missing—yes, it was meant to cover both.

Chairman KERRY. Is that correct? According to the—

Dr. SHIELDS. And those two lists were often—

Chairman KERRY. OK. He did not put in a prisoner of war list, did he, Senator Dole? He put in a missing in action list.

Dr. SHIELDS. Was it missing in action or missing?

Chairman KERRY. Missing in action.

Dr. SHIELDS. Well, if he had a missing in action list and David Hrdlicka's name was on it, then that was an incorrect list.

Chairman KERRY. That is a mistake. Thank you.

Dr. SHIELDS. If it were missing, it would have covered both.

Chairman KERRY. It covers the point.

Dr. SHIELDS. I'm simply—yes, it does, Senator, that when you read some of my statements you will find that missing covers both.

Chairman KERRY. Absolutely. But you, and I said this, to your credit, you did distinguish, but you talked particularly of people captured. And, to your credit, you did that. It got lost everywhere else, I am afraid. And I think you know that, deep in your heart. It did get lost, did it not?

Dr. SHIELDS. Senator, yes, I did. I always tried to make the distinction, but I'm pointing out—

Chairman KERRY. No, but it got lost. You made it; others did not.

Dr. SHIELDS. But, on behalf of those who didn't, the term was used frequently in the 1970's to describe both missing in action and prisoner of war.

Chairman KERRY. Fair enough. OK. I just want to—

Dr. SHIELDS. And it's important to understand that so you will understand that people who use that term were not forgetting about prisoners of war. That was my only point.

Chairman KERRY. OK. We will come back to it, because I truly want to talk about what was in front of us, in terms of POWs.

Dr. SHIELDS. I do. And I also want to make the distinction, I am very happy that Senator Smith recognized that I had talked about people who had been captured and thought to have been captured, because the last time I appeared here one of the comments was no one had ever been told that. And I think the record is complete that I said that many, many times.

Chairman KERRY. I hope the record will be truly complete and you will point out that I mentioned that to Senator Dole in the comments that I made and gave you credit for.

Dr. SHIELDS. Today. I'm talking about June 25, Senator, in the session which received a lot of attention, in which the Defense Department was described as having never told families and the American people that men had been captured and had not returned, and had been carried as prisoner of war.

Chairman KERRY. Fair enough.

Dr. SHIELDS. But that's an important point, and I don't want to forget that. And I will come back to your distinction about prisoner

and missing. It is important. But I would suggest, in the context of Laos, if you are making that distinction in your own mind, it's going to be very difficult for the missing there. Because, and let me get into this; we're talking about Laos, and let me read a couple of things that I just wrote on that.

The first thing that should be remembered is that those whose names were on the list of prisoners purportedly under the control of the Laotians were in reality prisoners of the North Vietnamese. You're aware of that.

This means that as far as men actually held in Laos are concerned, not a single person was released. As I hope you're aware, the Department of Defense carried only four individuals as prisoner in Laos who were not released during Homecoming.

Now, you mentioned several of those today. Of these—

Chairman KERRY. I thought it was six. We had a thing earlier that said six.

Dr. SHIELDS. We ought to take a look at those names. My recollection, and I may be in error, but my recollection was that there were four.

Now that would have been at the end of Homecoming. That would have been after debriefs, and a status change might have been made based on something. I don't know. At the end of Homecoming I believe there were four individuals who were classified as prisoner of war.

One of these individuals I think was entered into a prisoner status mistakenly. That's George Clark. You've mentioned names, and I will too, because I think it's important. He was entered into a prisoner status mistakenly, and I think the services will tell you that.

Another one, a civilian, Eugene DeBruin, was last heard of directly as he escaped. He never returned to U.S. control. And I think that the intelligence groups feel they have very good information that he died.

So that would leave two individuals carried as prisoner in Laos, and the evidence of their capture and imprisonment is undeniable. And you've mentioned them, David Hrdlicka and Charles Shelton.

After their capture, though, information was very, very sparse, and was very negative about their continued survival. I think that needs to be said for the record, too. There was some further intelligence information which could not be verified, but it was negative.

The DIA believed, as I recall, that three other individuals may have been captured, although the services carried these men as missing. And of these men, the remains of one were found associated with the wreckage of his aircraft.

And to just digress for 30 seconds on that. You asked if indigenous people had been targeted and tasked with collecting intelligence information. It was indigenous personnel who recovered the remains, identified the aircraft, or rather allowed the Navy to identify the aircraft and identify the remains of Commander James J. Evans. They did this in an area that was not secure. They had visited that crash site a number of times, and continued to be targeted on it until they were successful in bringing back the remains which were recovered. And Commander Evans was buried in Arlington Cemetery.

Of the other two carried as POW by DIA, they may have been taken prisoner, and were in circumstances where this was certainly possible. But we were never able to verify that. And nothing to indicate they ever entered a prisoner status was heard while I was in the Department of Defense.

No one who was actually held in Laos ever wrote a letter which came to the U.S. attention. No letters were received from men who were actually held in Laos. And in fact, only one man who did not return alive wrote a letter, which was delivered to a family and he was on the died in captivity list in North Vietnam. I know you had discussions about letters.

Photos of David Hrdlicka and Eugene DeBruin in captivity came into our possession and a short broadcast made by David Hrdlicka was also heard. And all of this occurred a very long-time, substantially a long time, before Operation Homecoming.

Now, Secretary Schlesinger testified this week that our intelligence information regarding Laos was good. And his testimony did not appear to me to be contradicted by Secretary Laird. And if that is true, then it is clear that very few men, and perhaps even none as some people believe, and I don't include myself in that group, were taken prisoner in Laos.

Now, this supposition is supported, to some extent, by the far greater number of combat rescues which occurred in Laos than in North Vietnam. The fact was that, among the airmen who went down in Laos, who were shot down in Laos, and the airmen who went down in North Vietnam, if you went down in Laos you had a greater, substantially greater, chance of returning to American control, either as a prisoner—and there were none essentially in Laos—or as a combat rescue, than if you went down in North Vietnam.

So we actually recovered more men from Laos through rescues or as returnees than we had out of North Vietnam. And I think that that says something about the status of the missing in action in Laos, because they were the more difficult cases, where our rescue aircraft were not able to get in many cases because of a lack of information about downed aircraft or about the status of the air crews.

A number of people have spoken to me in the last couple of days at their shock in learning that two former Secretaries of Defense and the Chairman of the Joint Staff at the time of the cease-fire believed we left prisoners behind—they said they thought so—and did nothing about it. They cite the opposite behavior of Secretary Richardson during Watergate.

But I think, Mr. Chairman, and members of the committee, when you have access to all of the information and all of the intelligence which those gentlemen believed was very good, and despite that, all you are left with is a gut feeling, a gut feeling that someone was there, you may be very reluctant to send men into combat and to have aircraft bombing again when you know that you're going to lose people and you're going to create new missing in action.

Those are the reasons I refused to speculate about how many men we might expect to see return from Laos during my April 12, 1973 press conference.

Chairman KERRY. Dr. Shields, could I just interrupt you there? And I apologize for it.

Dr. SHIELDS. Yes.

Chairman KERRY. We are in the back end of a vote. I want to be able to hear your full statement, as does Senator Smith. So if we could simply recess long enough to get us to vote.

Dr. SHIELDS. That's fine.

Chairman KERRY. We will be right back.

[Recess.]

Chairman KERRY. The hearing will come back to order, please. My apologies, Dr. Shields, Governor, Colonel. Thank you again for your patience here.

Dr. Shields, you were in the middle of your important statement.

Dr. SHIELDS. Yes. Thank you, Senator.

Chairman KERRY. Could you pull the mike up a little closer, please.

Dr. SHIELDS. Yes, I will.

I explained that because of the small number of people that were carried as prisoner, I'm concerned about your statement that there's a definite demarcation line between prisoner and missing, because if that's true in Laos, then we really and truly have nothing. And if our intelligence was good, that gives us a bigger problem than perhaps we had before. And on top of the fact that more men who were downed returned from Laos, either as a prisoner or as a rescue, rescued crew member, some people use that to speculate that we simply couldn't have anyone left in Laos other than perhaps the two people we knew who were there at one time.

And that is why in my April 12, 1973, press conference I refused to speculate about how many men we might expect to see out of Laos, and why I said that I did not rule out the return of some men from that country.

In any case, we were also hampered—we were talking about intelligence—we were also hampered by the inability to use our own resources. I mention the fact that indigenous personnel had recovered remains of one of the men that the DIA thought was a prisoner. Those indigenous people could never have been as highly motivated about Americans as our own people would have been, and we were not allowed by law to use our own people.

In any case, most of the intelligence about suspected prison camps or U.S. prisoners in Laos received while I was in the Pentagon was very vague and impossible to verify. And the fact remains that we knew, and I believe know today, very little specifically about our men missing in Laos.

I want to say very specifically that never at any time while I served in the Department of Defense did we have anything, and I repeat, anything, that could be used even remotely to support the idea that we knew there were 350, or 250, Americans alive and held prisoner in Laos. That simply would require that all the men who were missing would have been taken prisoner. It does a massive disservice to our families to even suggest that.

Chairman KERRY. Where did that suggestion come from? Are you reacting to something that was in fact suggested?

Dr. SHIELDS. I'm reacting to stories in the press.

Chairman KERRY. That suggest that there may have been as many as 200 or 300 prisoners?

Dr. SHIELDS. That in fact we knew that we had 350 people left as prisoner in Laos after Homecoming. I can quote from one of the— from an editorial—rather a syndicated column, that was written just a few days ago that said 350 men were finessed in Laos as DOD wrote them off.

Now, Senator, that is especially disturbing to me, while this committee is doing its work, because—

Chairman KERRY. Well, let me just say that it is totally irresponsible. I think every time this committee has met, every time I make an opening statement in front of this committee we have tried to distinguish between reality and possibilities here. And never has the committee ever asserted the number of 350 prisoners. There have been 350 MIAs referred to in Laos, pilots shot down, et cetera, lost, and even more than that. But in terms of the numbers we were dealing with, there have been a lesser number that were referred to as POW or listed to be.

Dr. SHIELDS. I understand, Senator, that the committee can't control the press any more than I could when I was doing this. And I had similar anguish about the distortion of some of my statements.

You ask about how I felt about the—my personal evaluation of the U.S. negotiating strategy, and I'll just mention a couple of things here. In light of the French experience—the French experience, I think, showed the difficulty of negotiating with the Vietnamese. France maintains that it left no prisoners and it that received an accounting. But I think an examination of their experience shows that they were given a take-it-or-leave-it situation, and they took it.

The obvious political imperative of North Vietnam was conquest of the South. The never approached the missing issue as anything other than part of that objective, and it was certainly never treated as a humanitarian issue.

There is no doubt in my mind that military force represented by the mining of Haiphong Harbor and the bombing of the North by B-52's was the instrument which brought the men home in Operation Homecoming. The men themselves believe that. Senator McCain might testify to that, but there are two individuals here today, Captain Schumacher of the Navy, retired, and Colonel Collins of the Air Force, retired. And I think they'll both attest to the fact that their belief is that the B-52's and the mining of Haiphong Harbor brought them home.

This suggests to me that only military action or, at a minimum, the credible threat of military action could have allowed us access to the areas where our men were lost or might have been detained. And that clearly was not a possibility. Congress cut off the funds which could not have guaranteed South Vietnam's survival, but which surely guaranteed its defeat.

And you asked in a recent TV appearance on Nightline, Senator Kerry, if Congress had ever been informed of North Vietnam's non-compliance with the accounting provisions of the cease-fire agreement. The answer, as I'll note more fully in a moment, is an emphatic yes. Many times.

There was no outcry for raids that would have supported the threat of military action, much less action itself. I had to explain in detail why the JCRC troops, the group in the field to do the searches, were primarily men from the special forces. Because a lot of people in Congress thought that these men were going to be involved in clandestine military actions.

Senator Humphrey, a man whom I greatly admired and respected, asked me personally if our JCRC troops were going to be involved in clandestine intelligence operations to support Vietnamese and Royal Lao military efforts in the field. And after I had assured him, he made a public statement, and there was a press release, and somewhere I have it, although I tried to find it for your committee and couldn't, but I do have it somewhere, to the effect that he was satisfied that they were not going to be used for Clandestine purposes. So that tells you something about the political mood at the time.

These comments don't address the major question that you have to answer and consider, which is whether military action to obtain an accounting is appropriate in the first place. And I heard Secretary Richardson comment on that. Contrary to the views of your committee, we could not, in April 1973, and I believe cannot today, point to men whom we knew were alive and being held against their will at that time.

What camps would we have raided, and who were the men who would have been the target of those raids?

Chairman KERRY. OK. Can I just stop you there for a second?

Dr. SHIELDS. Yes.

Chairman KERRY. That is a statement that was sort of operative then, and I understand it. I have been trying to draw a distinction. I agree that you could not point to a place where you knew people were alive. And the committee I think has come to a consensus. Do you agree, Senator Smith? You could not point to where you knew they were alive?

Vice Chairman SMITH. Well, I am not sure about that because of the testimony from General Secord and others who basically have said that—yes, we can debate it later—but I mean the point is that there were specific references to POWs during the war.

Chairman KERRY. I am going to come back to that. Follow me through.

Dr. SHIELDS. Well, no. I am not saying that there were never ideas about where men might be held. I testified that we received vague—and my comment here was, where would the raiders have gone and who would have been the targets of their raids?

Chairman KERRY. I understand.

Dr. SHIELDS. And that's because I believe the intelligence that we had at the time would not have supported that specific kind of action. Massive raids and massive military action, perhaps. But surgical strikes targeted against those that we felt had been prisoners or were missing could not have been done.

Chairman KERRY. Well, let me finish, or keep going anyway.

Dr. SHIELDS. How many lives would we have been willing to lose and how many new missing in action would we tolerate to discover empty camps or to find graves and recover remains?

Secretary Schlesinger and Admiral Moorer had no more than feelings—no more than gut feelings that we left men behind. They had access to all the intelligence that I ever had, and these men had no specific information at all, only gut feelings. If there feelings are correct, then I think no negotiated settlement to the war could have ever been possible. Because if we had negotiated we would never have been able to negotiate unrestricted access to the areas where our men were left. And whatever negotiation you would have had, and whatever results you would have had in an accounting, would have left people with that same gut mistrust of the Vietnamese.

So, I think in that case, if you really believe that, only military action would have given you access to the areas that you needed to accomplish an accounting. So, I believe if you're talking about the kind of accounting that this committee is looking for, the only possibility would have been military victory. Not just action or threat of action, but military victory in Vietnam.

Chairman KERRY. Well, if that is true, then can you get an accounting today?

Dr. SHIELDS. Well, Senator Kerry, I'm pleased to comment on that, because the next part that I wanted to mention to you here was the fact that—

Chairman KERRY. Well, wait a minute. The accounting we are looking for today is no different than the accounting that you say you were looking for then.

Dr. SHIELDS. No, no, no. I simply want to point out that we did receive an accounting from the Chinese. And it's important to know that.

Chairman KERRY. OK. Let us stop for a minute. No, no, no, do not slide away from this. You just said, if you wanted to get the kind of accounting we were looking for then you would have had to have military victory. Didn't you just say that?

Dr. SHIELDS. That's correct, I did.

Chairman KERRY. We are not looking for any different kind of accounting today. How do you get it without a military victory?

Dr. SHIELDS. Well, Mr. Chairman, based on the assumption that the Vietnamese are dishonest and you have a gut feeling, not an intelligence-derived feeling, but a gut feeling that men were left, no accounting that you receive today, if you distrust those people, will be an acceptable accounting, because there are men that I know that North Vietnam and the Pathet Lao can account for. There are men that we know unquestionably were lost over water, where no one knows where they were. There were men who were lost in jungles.

I know of one helicopter that was lost in an area found by Vietnamese woodchoppers. The helmet of the pilot was found outside that helicopter. The medical kit had been taken down and was lying outside on the ground. The shoulder straps had been undone. And the guns on that helicopter were still in place, indicating that no enemy got to that helicopter.

It was in such a remote and physically impossible area that if those men had been injured they simply would have been lost, I believe, in my own judgment, trying to find their way to our forces.

And if they were lost in that jungle, no accounting would ever been found for them. And the problem is—

Chairman KERRY. You are absolutely correct.

Dr. SHIELDS. And if you distrust the Vietnamese when you have that residual list of people for whom you do not have an accounting—if, for example, there is a man who was a prisoner and Eugene DeBruin might be an example, who escaped and who died while trying to return to our forces, which is not impossible, and no one knows about him, you would still have that doubt in your mind that you had received the accounting that you needed. You would still distrust the Vietnamese.

Chairman KERRY. But the bottom line, if you follow that logic, is that you cannot expect to get, in 1992, the accounting that you are saying you could not get in 1972. If that is your logic.

Dr. SHIELDS. My logic, Senator, is that if you have a gut distrust of the Vietnamese, you couldn't have it today, you couldn't have had it 10 years ago, you couldn't have had it in April 1973. Because whatever the Vietnamese did would have left a residual of men unaccounted for. And you would have had doubts in your mind about their honesty.

I'm simply saying that two Secretaries of Defense and the Chairman of the Joint Staff at the time that the cease-fire was implemented believed that men were left, but not because of intelligence, not because of specific information. And they had access to all the intelligence. It was a gut feeling. And that gut feeling of distrust continues today. And I'm saying that if they don't trust them today, they didn't trust them in April 1973—

Chairman KERRY. You are saying that the only evidence that people were being held prisoners in Laos was gut feeling?

Dr. SHIELDS. I'm saying, referring specifically, Secretary Laird, Secretary Schlesinger, and Admiral Moorer that they all said believed that prisoners were left based on their distrust of the Vietnamese. When asked if they had specifics, they said they did not. That's on the record.

Chairman KERRY. No, I am asking you if the Government of the United States in 1972 only had gut feelings or did it have real evidence of people being held in Laos?

Dr. SHIELDS. We did not have evidence at that time, current evidence that allowed us to say those people were alive. We certainly knew they were alive at one time.

Chairman KERRY. But you see, now you are dancing once more.

Dr. SHIELDS. No.

Chairman KERRY. You see, the great dance is, we did not know they were alive, therefore, they were dead. That is not what most people believe was the choice confronting us.

Dr. SHIELDS. Senator Kerry—

Chairman KERRY. If you knew Shelton was a prisoner—the last knowledge you had was Shelton was a prisoner, correct?

Dr. SHIELDS. That's correct.

Chairman KERRY. The last knowledge you had was that Hrdlicka was a prisoner, correct?

Dr. SHIELDS. That's correct.

Chairman KERRY. Now, until you learn that they are dead, they are prisoners, are they not?

Dr. SHIELDS. They are in that status. If they are dead—Senator Kerry—

Chairman KERRY. Well, is it just a status or is it something more compelling?

Dr. SHIELDS. No, no. No, it is more compelling. What is important is the actual observable fact. If a—

Chairman KERRY. Now, they did not come back, did they?

Dr. SHIELDS. That's correct.

Chairman KERRY. OK. Did you tell Congress David Hrdlicka and Richard Shelton did not come back and they are prisoners?

Dr. SHIELDS. Congress was told many times.

Chairman KERRY. Did you tell them what I just said, names?

Dr. SHIELDS. Specifically, I don't believe I used your words. I think I would have used my own words.

Chairman KERRY. Did you ever attach names and faces to the numbers that you gave Congress?

Dr. SHIELDS. Yes. Yes.

Chairman KERRY. When?

Dr. SHIELDS. And you'll see discussions. Senator, you have the list there. I don't have—

Chairman KERRY. Well, if that is true, why doesn't it ever show up anywhere?

Dr. SHIELDS. Well, for a number of reasons. First, it was the Privacy Act. We did not, in general, speak about individuals. We did not, for example, say there are 135 individuals by name, and these are the ones, North Vietnam and Laos, that you can be expected to account for, because that would not have been an inclusive list. We never wanted to tell them that we knew about 135 and that's all that you have.

So, I'm sure that you will find that the knowledge of people who were there—there are today some returnees and some wives, they knew about David Hrdlicka.

Chairman KERRY. I understand the network of families clearly knew about these people, which is why this issue is alive today. Let me just finish. The Privacy Act did not effect Secretary of Defense Laird when he stood up and corrected the Kennedy list and said 14 of these people, here are their faces and names, and they are prisoners. They did not come home. Not 1 of those 14.

Dr. SHIELDS. Senator, none of those people, for your importance about the difference between prisoner and missing, none of those were as prisoner acknowledged by the Committee.

Chairman KERRY. May I say to you, I would like you to read the press conference. I would like you to read what Secretary Laird said. The Nation was told that the Kennedy list was wrong. You cannot trust the Vietnamese because they do not give you the truth. Here are 14 out of 26 people that we know are prisoners.

Dr. SHIELDS. I'm sorry, Senator. I may be thinking about a different 14. I'm thinking about the 14 who were in his dining room.

Chairman KERRY. I am saying to you that in January 1971, I believe it was January, Secretary Laird, and you were part of this effort, stood up publicly with faces and charts, saying, look at these people. They are prisoners in Vietnam, and they were not on the list the Vietnamese gave us.

Now, No. 1, that should have given us fair warning the Vietnamese were not giving us full lists. So lists should have been an issue.

No. 2, none of them came home.

And neither you nor Secretary Laird, nor anyone else stood up after Homecoming and said, what about the guys we cared about back in 1971. Privacy did not stop you then.

Dr. SHIELDS. January 1971, I know of no such thing. I just don't know of that at all. In 1972—

Chairman KERRY. January 1972.

Dr. SHIELDS. Yes, that's correct, Senator. I know that.

Chairman KERRY. I mean, the point is the same. You never came back with those 14 people and told America—I mean, it was good enough to show the Vietnamese were being perfidious and you had to prolong the war. But once the war was over, it didn't seem to matter to get them back.

Dr. SHIELDS. I think that there were documents before Congress in which lists with every man's name—

Chairman KERRY. Show them. We have not found one document, one conversation, one debate, one Congressional Record statement, not one, pertaining to real individuals who did not come home. Not one.

Dr. SHIELDS. Do you include the Montgomery Committee in this? The Montgomery Committee hearings. And there are no individuals?

Chairman KERRY. That is 1976.

Dr. SHIELDS. Yes, that's correct. And you're asking when, and I'm just saying that that was one example of when.

Chairman KERRY. I beg your pardon? I am sorry.

Dr. SHIELDS. I'm just saying that in 1976 it was done. That was done. Other lists, of course, were put out that distinguished prisoners. In fact—

Chairman KERRY. Yes, but in 1976, the question of accountability was at its worst ever. Vietnam, you know, overran in 1975. We had no communication, no involvement, no recognition. There was nothing going on then.

Dr. SHIELDS. Senator Kerry, this is a hearing in 1974, January 28, in which we have a section entitled "Presently listed POWs," and we were asked about how many we had. The question was, there are 50 men still listed. And I said we now have 57 men who are listed as prisoners of war as of January 19, 1974.

Chairman KERRY. This is where now?

Dr. SHIELDS. This is in the Senate hearings before the Committee on Foreign Relations, United States Senate.

Chairman KERRY. And who—did you list names?

Dr. SHIELDS. It's my testimony. I did not list names, no.

Vice Chairman SMITH. Were the families of those 57 people told they were listed as prisoners of war?

Dr. SHIELDS. I'm sure that every family on that list knew, because they knew the status of their loved ones.

Vice Chairman SMITH. So those families that were on that list, in spite of the comments made, the public comments made to the contrary, that there were no more prisoners of war, we are told that there were prisoners of war—that their family member was a prisoner of war?

Dr. SHIELDS. Senator, the list—

Vice Chairman SMITH. Now, I do not understand. I really do not.

Dr. SHIELDS. The list is replete with names of people who were carried as—that we carried as prisoner of war. The list—the fact that we had prisoners of war has been reported ad infinitum. And if you don't have it in the record, I don't understand that. I'm just reading one right here. We were asked about it, and I said, yes. And I might add, to clarify the list of prisoners of war for these men, a number of these men were listed as dead, having died in captivity either by the North Vietnamese government or the Provisional Revolutionary Government in Vietnam.

We had not made the status changes based simply on lists. So those people were still carried as prisoner.

Chairman KERRY. Well, OK. I am not going to—what I want to try to do then, because this is the gravamen in this whole thing and I want to try to understand it, you helped us a little bit the last time you were here, maybe you can help us some more now with all the information that has come out. The issue is obviously why we are here, why this has lingered.

Families, obviously, have felt that they have not been treated well on this issue. Correct? I mean, they feel—

Dr. SHIELDS. I would say some families, Senator. I know some families who feel that they've been treated very well.

Chairman KERRY. Some families feel like the Government did everything possible. I agree with you.

Dr. SHIELDS. That's correct.

Chairman KERRY. There is a split.

Dr. SHIELDS. That's correct.

Chairman KERRY. But the families, if you look at the cases I suppose, the families that feel the worst are the ones that felt they had the best chance that somebody might be alive.

Dr. SHIELDS. I know some families where there was very little information at all, and I will mention that at the end of my statement, who still feel that way, and who are very concerned about an accounting and I will get into that. Perhaps I should continue.

Chairman KERRY. Let me let you continue, and then we will come back.

Dr. SHIELDS. Then we will go on. The most important question you asked me was whether we have done—whether we were open and honest with the American people, and I want to answer in some detail.

Was the Government open and honest with the families of our missing, the Congress, and the American people? My answer is an unequivocal and unqualified, yes, as far as the period covered my own tenure in the Department of Defense is concerned. And you will understand that I cannot speak for other periods.

You are going to judge this. I only ask that you examine the record in detail before that verdict is reached. You asked, Mr. Chairman, for example, during a recent appearance on Nightline, whether the administration had ever informed the Congress about violations in the Ceasefire agreement provisions covering the accounting for the missing.

The implication that I drew from that question was that Congress would certainly have made some response to violations of the

agreement and noncooperation with our own efforts, if it had been aware of the problems we encountered. The answer to your question is an important one, Senator Kerry, and one that every person associated with this and all the members of this committee should know about.

Had I been on Nightline, as I was invited to do, I could have informed you that the answer to that question is emphatically, yes. You will find voluminous and detailed testimony. I do not think that we list every man that we carried as prisoner, but concerning the violations of the Ceasefire agreement, you will find voluminous and detailed testimony devoted to this question before the House of Representatives.

Among others—a number of things—but among others I will cite December 1973, just a few months after April in testimony before the House and before the Senate in January 1974. In a complete and detailed fashion again in October 1974. And in numerous letters and detailed communications to Members of Congress.

Your committee has many of these communications. And another example which I will submit for the record is a lengthy and detailed report which I sent to Congressman Melvin Price, then Chairman of the House Armed Services Committee, in March 1975.

And to just to quote very quickly from these, let me point out, here, that I said regarding lists, that further, the list did include the names of all Americans we believed—did not include on the list—the names of all Americans we believe had been captured and about whom they clearly should have had knowledge. A little bit further down, I stated, and there was a list, Senator Smith, that said we had people who were captured. And there again I said, “while we are profoundly grateful for the return of the these men, our joy and sense of accomplishment are tempered by the fact that over 1,300 others, listed by our Government as missing and captured, did not return.”

Now, did I provide the names? If someone from Congress had asked, I probably would have provided the names. But let me just tell you quickly one of the reasons I did not do it. Senator Kerry just commented on our easel display: 14 men and their cases. And I will submit those for the record, too, because I am proud of that. I am referring to the Senate hearings of January 1974.

Senator Pell was asking about publicity efforts, and let me tell you what I said at that time. I will just confine it, here, to the last paragraph which I think is the most important.

“Present at that time were a very large number of journalists, and they toured these displays. Each display contained a photograph of the man on one side, a map of Southeast Asia on the other side, together with a pinpoint location description of that man's loss. That coverage never saw the light of day. It was dead as soon as everyone left that room.”

And I can tell you that after the men came home in Operation Homecoming, there was even less interest and perhaps, if I did not put up easels again, detailing every person, it was because I did it before—at a time when interest should have been the greatest, and there was no interest whatsoever.

Vice Chairman SMITH. Doctor Shields, can I just—I know you are not finished. Let me just break in here for a second. The attempt

here is not for the committee to impose blame upon you. The thing that I am looking for is an explanation. Now, you used the term gut feeling. It was your term.

All of the information that we have received, based on witnesses that have said that they were dealing with the intelligence and had access to it during the War and some of it after, but we are talking during the war, they were not talking about gut feeling.

The term “hard evidence” has been used. The term “photography” has been used, aerial photography. The term “photographs”. I mean, is it your testimony that you sent or you were involved in, did not send unilaterally, a message, a memorandum to the Secretary of Defense, passed to the National Security Advisor and, ultimately, to the President of the United States in 1973, in March. Around March 28, in or around March 28, where you said, or was said, we are going to have to resume the bombing, start the war again, unless we get information on prisoners in Laos.

Are you telling me that that document was produced by a long line of people in both the military and intelligence channels on the basis of a gut feeling? Is that your testimony?

Dr. SHIELDS. Senator Smith, that action—it was never acted on, as you know.

Vice Chairman SMITH. Of course it was not acted on. That is why we are here.

Dr. SHIELDS. I worked on more than a gut feeling, personally. I am simply repeating to you what I heard from Secretary Schlesinger, who was the Secretary of Defense, Admiral Moorer, who was the Chairman of the Joint Staff.

Both were asked why they believed people were left, and they both said because of distrust of the Vietnamese. Not intelligence—they could not cite the intelligence even though they had access to it. That is the point I would make. I am not talking about my own gut feeling. I am talking about those who were in a position to know, and many of them only had gut feelings.

Vice Chairman SMITH. I am not going to debate it, but I am just saying to you that Laird was there prior to this time, Schlesinger was after that. You know, we had a continuity here. It was not one of somebody before and somebody after.

The point is, I want you to tell me what changed in terms of the knowledge data base that you had on prisoners, what changed on March 29 that you did not have on March 28? What changed?

Dr. SHIELDS. Senator, you should have asked Admiral Moorer and Secretary Schlesinger and Secretary Laird.

Vice Chairman SMITH. I have asked everybody who has been up here.

Dr. SHIELDS. My own personal feeling is that it was an honest reading of the intelligence. I think that that is something for you to consider very seriously.

Vice Chairman SMITH. But you said on April 12 there are no indications that there are Americans alive in Indochina.

Dr. SHIELDS. I want to go into that in detail in a moment because I said some other things, too, Senator Smith, and I want to go into detail on that.

Vice Chairman SMITH. Finish your statement.

Dr. SHIELDS. But, as I said, you will have to judge the appropriateness and adequacy of the response of Congress to these reports.

I would note that this January 28 testimony, and the one in December to the House had a detailed day-by-day chronology from February 1, 1973, through, in the case of those who were missing, and I use that term again to pinpoint both prisoners and missing in action, through January 15, 1974, of the day-by-day efforts of the United States to obtain an accounting in the forum which had been set up for that purpose.

In a separate chronology from February 1 through December 11, and that is a two-page chronology with day-by-day entries—February 1, February 9, March 9, March 10, every significant action we undertook. So that went to Congress. And, as I said, I have to leave it to you to judge the appropriateness of the reaction of Congress to the information which they received.

Vice Chairman SMITH. Well, it went to Congress, eventually, some of it did, but I did not go to Congress prior to March 29 before that statement was issued by the President of the United States, and it did not go there before your statement was issued.

Dr. SHIELDS. Senator, the team was not even meeting. The team was not even meeting on March 29. It has taken the Russians several months to say that they do not have Americans from Vietnam. That is simply to go through their own information. How much longer would it have taken to obtain an accounting in the field?

Vice Chairman SMITH. You still have not responded to the very basic question. Whether somebody turns up alive 20 years later or 2 days later is not the issue here, Dr. Shields. The issue is that a data base of information was presented all the way up the channels to the President of the United States, and it was totally ignored.

At least, it was not acted upon, and there is nobody giving us an explanation for that. There is one and I would like to know what it is.

Dr. SHIELDS. The President had—the question that I was addressing here, Mr. Chairman, and I will get into this in this other area, was the response of Congress whether Congress had ever been informed.

Chairman Kerry indicated that he did not know if Congress had ever been informed, on Nightline, and I am simply saying that the details of that effort to inform them are here.

Vice Chairman SMITH. What is the answer to my question, then? What is that? You have given the answer to Senator Kerry's. What is the answer to mine?

Dr. SHIELDS. Of what we knew?

Vice Chairman SMITH. Why? What was different in the data base of information that caused a small circle of people, which is where we are now, to not act on what was told them? That is, I mean, I understand there is a million different reasons, Congress to blame, people to blame, protesters to blame, administration to blame. I am not looking to blame anybody.

Dr. SHIELDS. I do not either.

Vice Chairman SMITH. I am trying to find out what the hell happened.

Dr. SHIELDS. I lived through that period. I know I used to have Mrs. Collins back here, and Mrs. Hrdlicka after me every day before the men came home, and I was grateful to have Mrs. Collins' husband, who is here, come home, but I never was able to get Mrs. Hrdlicka's husband home, and I regret that very much.

Vice Chairman SMITH. Could you just answer my question? I am only asking for an answer to my question based on what you knew.

Dr. SHIELDS. I am suggesting, Senator, that based on the statements that we have heard from a former head of the CIA and the head of the Defense Department, who did not believe the intelligence supported the kinds of things that you feel. And perhaps Congress did not either, and that may be why Congress did not react. I do not know. I agree with you that we did not get an accounting and Congress was informed.

Vice Chairman SMITH. But what changed?

Dr. SHIELDS. Nothing that I know changed. There was a big event, Senator, and the big event was the fact that some almost 600 people, 591, did come home. There was a specific accounting provision that said those who do not come home can be accounted for in this forum.

Now, I told Mrs. Hrdlicka, we have got to account for your husband. He did not come home. This is the forum in which we are going to do that. We are going to do that with this specific machinery which is part of the Ceasefire agreement to be implemented.

I suspect that Congress, at that time, on March 29, had I gone there, would have said to me, you have not even begun to exercise the accounting machinery yet. You want to go bomb. And it could be that these men died. And maybe the accounting is going to find that. That is what the accounting is for. So do not tell me about bombing when you have not even done the accounting. You may account for Colonel Hrdlicka through the accounting process.

I just do not think I would have received any kind of a welcome anywhere had I said we have not even exercised the accounting machinery.

Vice Chairman SMITH. Can you tell me what was said in the April 11 meeting, April 11, 1973?

Dr. SHIELDS. With the President?

Vice Chairman SMITH. With the President.

Dr. SHIELDS. I will to the best of my knowledge, Senator Smith. You have to realize, again, that that is a long time ago.

Vice Chairman SMITH. What was the purpose of the meeting?

Dr. SHIELDS. I think that the purpose of the meeting, as it was conveyed to me, was for me to convey the best wishes and the congratulations of the President for all of those who had been involved in Operation Homecoming.

Vice Chairman SMITH. Well, what was the purpose of the April 4 meeting, then, the week before? I thought that was the purpose of that one. Did you have an April 4 meeting?

Dr. SHIELDS. Which? April 4? I only met with the President one time, and I do not recall the date.

Vice Chairman SMITH. Well, in a letter that you wrote, I believe it was to a family member, I am not certain, I have got it here somewhere. On May 10, 1973, you wrote to a family member quote,

on April 4, 1973, I met with President Nixon to report to him on Operation Homecoming, end quote. Maybe you misspoke.

Dr. SHIELDS. I may have misspoken. I have a photograph at home that shows the date of it.

Vice Chairman SMITH. So there was only one meeting with the President?

Dr. SHIELDS. There was only one meeting.

Vice Chairman SMITH. OK, that is fine. So, what happened? So then we are up to April 11, and that was the meeting with the President. Did anybody give you any instructions before that meeting?

Dr. SHIELDS. No, no. About what? About what I should say at the press conference?

Vice Chairman SMITH. Right.

Dr. SHIELDS. We talked about how we should convey to the families what we knew very precisely. You have to understand, Senator Smith, that I had many family members like Mrs. Hrdlicka, the majority had loved ones who were listed as Missing in Action.

Now, she had a loved one who was a confirmed prisoner, her husband. But there were others who did not. And it was difficult, at that time, to tell them, your husband, your father, your son, your brother did not come home. And so, what I needed to say at that time, my objective, was to say very specifically and, it turns out, it was obviously something that some people at least today did not understand.

There was no hue and cry though at that time, because I think people understood at that time. But the point was to say, I cannot tell you today, Mrs. Hrdlicka, and I apologize Mrs. Hrdlicka, for using your case, but it is—we are friends, and we have been friends for a long time, so I will do that.

I cannot tell you that your husband is alive today. Because the last time I knew he was alive, it was a long time ago. And he did not come home. There was a significant event, there was Homecoming, which left us all with questions. And the problem that I had was, in many cases, was that that was a very negative event. And you can talk to the families whose loved ones did not come home. For them it was traumatic beyond belief. And so I had to tell them—

Vice Chairman SMITH. I am just trying to understand what happened in that meeting. A meeting with the President is something. I have had a couple in my time. You do not forget them. Your seniors were not in the meeting. It is a little unusual. Very unusual. Did the President say to you, for example, let me ask you a specific question: Did the President say to you in that meeting, Dr. Shields, are any of our POWs or MIAs still alive? Did he ask you that question?

Dr. SHIELDS. He may have asked about—I am sure we discussed the question of the missing and the accounting. He did not tell me they were all dead.

Vice Chairman SMITH. No, but did you ask him if they were all alive? I mean, did he ask you, rather?

Dr. SHIELDS. I knew about it at that time, I think, in terms of specifics.

Vice Chairman SMITH. But did he ask you if anybody was alive?

Dr. SHIELDS. You know, Senator, if there are Watergate tapes, and my discussion is on it, I would like to hear that, too, because I do not remember a lot of that meeting. There was a feeling that we had—of gratitude for having gotten the men home that we had, stretched over 2 months.

The French had commented on the condition of their troops in the middle of their repatriation and the Vietnamese stopped the repatriation and said, if you want your men, keep your mouth shut. And the French never said another word.

So, we were concerned during that whole 2-month period about whether men were going to come back. Phil Kientzler was one man, for example, whose name was not on the list, and we knew that he had been captured. And we knew that the men who were coming out knew that he was there, but they never informed us until the very end that he was there. We worried about him.

Chairman KERRY. Dr. Shields, let me interrupt, here, if I can. Could I interrupt just for a minute? Number one, I want you to know that I heard every word that you said. I was back there, and I have not missed any of your testimony. Number two, we would like you to finish up your statement.

Dr. SHIELDS. I will do that.

Chairman KERRY. Then we need to go through.

Dr. SHIELDS. I will do that. My point is the problem that we had in informing the public. As I was saying, Senator Kerry, millions of people who saw you on Nightline would go away with the impression that the Defense Department never informed the Congress of violations of the Ceasefire agreement, and that simply is not correct. It is on the record, it is there, it is in detail, as I have explained.

There have been editorial statements, one in a very important newspaper in the United States, one with a claim to greatness. Let me quote that, "In 1973 when Hanoi returned 591 American prisoners of war, the Pentagon's own records showed that hundreds more Americans had survived capture and were quite possibly still alive," close quote.

I do not know where that statement comes from. That was August 18. I do not know where that comes from. As far as I am concerned, that statement is absolutely, totally wrong.

But millions of Americans read that. So, the problems that we had in those days are the kinds of problems that maybe your committee is having today. I do not know where that statement came from, but it is in a newspaper that does not talk about, or does not like to acknowledge, its errors.

Chairman KERRY. Which statement?

Dr. SHIELDS. This press—this editorial that I just read.

Chairman KERRY. Saying?

Dr. SHIELDS. August 18. It said a number of things, but let me just quote one statement from it. Quote, "In 1973, when Hanoi returned 591 American prisoners of war, the Pentagon's own records showed that hundreds more Americans had survived capture and were quite possibly still alive," close quote.

Now, Senator Kerry, as I said, that statement is wrong.

Chairman KERRY. Let me suggest this. You have a long statement. I would like to make it part of the record in its entirety as if

you had read it. Is there a critical point or two that you would like—

Dr. SHIELDS. Yes, there is a critical part that I would like to get into because it is very important.

Chairman KERRY. Because I am sure some of the rest of it will come out in some questions.

Dr. SHIELDS. But it is important for me because I think that my own part in the record has been distorted. People have called me about it and I would like to get it on the record. There are grave concerns about how—what we did and when we did it.

Your comments about a conspiracy of silence have been widely quoted, Senator Kerry. And, if you believe that that conspiracy existed, you have got to be very frustrated because the documents are not there, and you have just talked to the major actors who had the power to do something. And I did not hear anything from them. How do you pin that down?

Think for a moment of what a conspiracy of silence involves. You would have to include six Presidents because the question in Laos goes back to status determination, and that goes back to the Johnson administration.

In all likelihood there are Vice Presidents, Members of Congress who have investigated these issues, and to whom frequent reports on the issues were made, myriad Secretaries and Deputy Secretaries of Defense, NSC staffers over many years, many Service Secretaries, Ambassadors, Secretaries of State and their staffs, innumerable members of the military services, including numerous Chairmen of the Joint Chiefs of Staff, many Service Chiefs, Assistant Secretaries of Defense and State, members of the POW/MIA Task Force and Task Group, heads of numerous staff of the intelligence agencies, members of a Presidential Commission, the men who debriefed the returnees and, lastly, the returnees themselves.

And it boggles my mind that, over 20 years, all of these people would have kept a conspiracy of silence, especially in this age of whistle blowers. And, especially, with men who returned, whose motto was Return with Honor, and who have said nothing about leaving their comrades behind, although they did specifically mention several foreign military who were held with them, and they did make the point they wanted them to come home. So, I ask you if that sounds incredible, then perhaps you ought to consider that perhaps it is.

Senator Robb asked a very important question on June 25 when he asked why no one from the intelligence community stepped forward and refuted the testimony that we did not know that—that we did not have clear indications that people were alive.

I answered it. I will answer it again. Intelligence did not show that. And they could not do it. And General Walters just testified to that effect.

Senator Kerry, you claim, rather insist, that American people were never told that men once carried as prisoners did not return at Operation Homecoming. You also insist that the American people were told they were all dead April 12, 1973 in a press conference that I gave.

Did the American people hear only that small segment which you played during the hearings, or did they hear something else which I may have said and was never reported in the press?

And, for the record, I would like to talk about that press conference on April 12. In the opening statement, Senator Kerry, I said—

Chairman KERRY. We made it part of the record at the last hearings. It is in the record in full.

Dr. SHIELDS. But I would like for the press to hear it because they do not get the record.

Chairman KERRY. Fine.

Dr. SHIELDS. I said, "A number of cases are outstanding, as you know, in which our men are unaccounted for." Now unaccounted for as I use the term, I think, is just the way you do. We do not know what happened to them.

Then I said, a page later on, "We, as you know with regard to lists, we received a list of 10 names of men who were held prisoner in Laos. No names of men having died in Laos, and nothing with regard to men having been captured in Cambodia."

As far as we are concerned, here in the Defense Department, we have not yet received all information concerning our men in Laos and in Cambodia. And we are continuing to press for information on men captured in those areas."

Now that is an open acknowledgement of men who were captured in those areas, and I did not have the easels, and I did not name them specifically, but I said, we did have men captured in those areas.

I said, again, we still have a certain number of men whom we consider to be still in the status that would indicate that we have not yet had full accountability for them.

Then the famous question, "Do you think that there are still POWs alive and well somewhere in either Laos or Cambodia? And this is the statement with which you have had such great trouble. "We have no indications at this time that there are any Americans alive in Indochina." What the people at the hearing did not hear, and what was never reported in the press were these words, "As I said, we do not consider the list of men that we received from Laos, the recovery of 10 individuals, nine of whom were American and seven military, to be a complete accounting for all Americans who were lost in Laos."

Nor do we consider it to be a complete statement of our information known to the Pathet Lao in Laos.

With regard to Cambodia, we have a number of men who are missing in action there. Some that we carried as captive." Again, the statement of people who were carried as prisoner but who did not return.

"We intend to pursue that, too. With regard to these men and these uncertainties which we have, even though we have no indication that there are any Americans still alive, we are going to pursue our efforts in the process of accounting for the missing. This is exactly what this procedure is for, and we anticipate that if any Americans are yet alive, for one reason or another, that we would be able to ascertain that through this process of accounting for the missing."

I spoke again about Laos on the next page. And I said, "So when you look at this, and we were talking about the hardness of the evidence, and this is not say that we cannot expect to find anyone else coming back from Laos." I admitted the possibility that people might come back.

"It simply is pointing out that any attempt to put a number, to quantify a number of men coming out of Laos is a very hazardous kind of thing. It is guesswork, it is speculation, and it does no one any good."

And then, we talked about the Dodge case, which you have cited, and I think deserves citing and said we are going to follow up on his case, and then I said, "We cannot write off a man about whom we know nothing."

And then, going back to Laos again, I said, "Well, I am implying that I would expect to receive more information about men in Laos. I said that it would be foolish to put any kind of number on this, whether it be zero, or whether it be over 300; cannot put a number on the number of men coming back from Laos, the number of men who are missing."

"I think that the small number of men which returned, and the number of men which are missing would indicate that we should receive more information concerning our men in Laos. And I think it is foolish to try and say anything more than that."

Now, Mr. Chairman, that was about as plainly as I could say that we did not have specific indications at that time that people were alive. I talked about people who were captured. I said it's not to say we can't expect people coming back from Laos, I don't know the number. I don't believe that's a declaration that all the men are dead.

And no one that I have spoken to who has read that, including some very smart people, came away with that feeling. And I'm not sure that anyone else that I do know understands why the only point of my press conference that was reported was the report that you played here before the committee, a 10 second capsule out of that 16 page statement.

Chairman KERRY. Well let me tell you, Dr. Shields, I absolutely assure you that we did not play that 10 seconds to the exclusion of the rest, because I acknowledged what you had said in the rest.

The problem is one—and you and I had a go around on it—the problem is one of interpretation and, I guess, normal citizen reaction to how you hear things, how they are phrased, where you phrase them in the paragraphs, what kind of emphasis you put on them, who is saying them.

No disrespect, but you were not the Secretary of Defense who stood up and had the big press conference on the lists. I suspect if the Secretary of Defense stood up and gave names and faces, you would have a different reaction. You, yourself, admitted in your subsequent memo to Governor Clements that your statement, the little 10 seconds we played, appeared to have become Government policy.

Dr. SHIELDS. No, I did not say that, Mr. Chairman.

Chairman KERRY. That is all right, I will take it.

Dr. SHIELDS. I have been talking about Secretaries. I do not know whether that's a promotion or a demotion. But, no, that was not policy.

In the memorandum which was written in May—which you had in your possession, which discussed the EC-47, which DIA has discussed and Emmet Kaye's capture—I said at the bottom of that page: "With your concurrence, we will continue the position that we don't know whether men are prisoner or missing."

Chairman KERRY. I know what you said at the bottom of the page. But let me just say what you said at the top of the page. At the top of the page you said: In a DOD-sponsored press conference held April 12, 1973, I made the statement that DOD had no specific knowledge indicating that any U.S. personnel were still alive and held prisoner in Southeast Asia. This statement has been the basis for all subsequent answers from DOD to questions concerning the possibility that Americans may still be held prisoner in Southeast Asia.

You are saying it became Government policy.

Dr. SHIELDS. Senator, the way I have interpreted that—and as I have said, everyone that I have shown that statement in the context of the other statements which I just read, we know we had prisoners, we may expect to have people coming back, no one took that—

Chairman KERRY. You are avoiding your own statement now. You are dancing again.

Dr. SHIELDS. No, Senator—

Chairman KERRY. This statement says it became Government policy. I am not arguing with you about whether or not your other statement included everything; it did include everything.

Dr. SHIELDS. Senator Kerry, you played a 10 second capsule that left out the part that I said about people who were captured, people unaccounted, and you say that I'm dancing.

Chairman KERRY. Dr. Shields, I have just said—and I said it when I played it. I acknowledged that day you said these other things.

Dr. SHIELDS. I never heard the acknowledgement, Senator.

Chairman KERRY. Well I will go back to the record. But the point is even today I am saying it. I know you said all that other stuff, but I just wrote down some notes as I listened to it again. We do not consider the list to be a complete accounting, then you went into MIA and some who were listed as captive.

That is not a phrase that grabs me in any way as if you believe somebody is still a prisoner. It is bureaucratize; it is saying we do not have a full accounting. Well what does that mean? Well to the average person listening, having heard you say there is no evidence that anybody is still alive.

So I frame that that we have not got a full accounting in the context of having heard there is no evidence that anybody is still alive, and my immediate next thought is OK, that must mean we have got to find out who is dead or how they died.

There is a huge difference. I mean I am in politics. I understand what it means to give a message. I remember those days too. I was riveted to the television set the night the President said all the prisoners are coming home. I remember it because I looked back

through the clippings and I was in a picture of one and they said to you what do you think. And my comment, quote, was thank God all the prisoners are coming home, quote, John Kerry, 1973. I thought they were all coming home too.

I must tell you, and I thought I was pretty aware back then, I never knew what I am learning today. I never knew you guys had a list of people that you thought were still prisoners. I never heard of it.

Governor CLEMENTS. I want to correct that. That is absolutely not true.

Chairman KERRY. What is not true, that I did not hear it? Do you know that?

Governor CLEMENTS. No. You probably heard whatever you wanted to hear, but I guarantee you we did not have a list in DOD at the level of secretariat that showed people that were there and supposed to be alive. That's just not true.

Vice Chairman SMITH. Would you like to see the list right now? We would be glad to show it to you.

Governor CLEMENTS. I would be happy to look at the list any time.

Dr. SHIELDS. If I can intervene in this, I would simply say that in regard to the statement, Senator Kerry, when I said we don't know how many men are coming back from Laos and it's not to say that we can't expect to see them, that, taken in the context of we don't know, we have no indications at this time that men are alive, simply meant what I said at the bottom of that statement. That is a statement that we did not know.

Chairman KERRY. I know what you say it meant. But, Dr. Shields, you are a very bright man. And, incidentally, I think one of the heroes in this effort in a lot of ways.

Dr. SHIELDS. Thank you. Thank you, Senator.

Chairman KERRY. I think you have done—I do not question your commitment to this. I think you were the guy in the Pentagon riding this thing all the time. That has become very clear to the committee.

But all I am talking about is cause and effect. Now look at the cause and effect. Here are the papers coming off your press conference. POW unit boss, headline: No Living GI's Left in Indochina. Here: Rumors that there were hundreds of U.S. servicemen still left in Laotian prison camps do the families of the missing a disservice. Headline: All U.S. POWs Free Pentagon Maintains. Headline: Unreturned GI's are Feared Dead, etc.

Dr. Shields, none of them, that was the impact.

Dr. SHIELDS. What was the statement, Dr. Shields what? I never said that the men were all dead. I never said that. I've never said that to this day.

Chairman KERRY. No indication that any of the missing are alive in Indochina. We went through this last time; there were indications.

Dr. SHIELDS. Senator, I don't believe that I could tell Mrs. Hrdlicka or Mrs. Van Dyke or the Van Dyke parents or anyone else that I had indications at that time that their loved ones were alive.

Chairman KERRY. But do you see—

Dr. SHIELDS. What had happened to them at one time is a question mark. No one that I have shown this press statement to, Senator Kerry, has come up with your interpretation. You get that when you hear only that little statement which was played on June 25.

Chairman KERRY. Sir, I was not there, and I did not write these newspaper articles.

Dr. SHIELDS. Nor did I, Senator.

Chairman KERRY. I am just showing you a sampling. And I am also reading your own statement where you say—listen to this: This statement has been the basis for all subsequent answers from DOD.

Dr. SHIELDS. Would you read the last sentence of that memorandum too, Senator.

Chairman KERRY. It was a totally accurate and factual statement at the time it was made.

Dr. SHIELDS. Not the last statement, the very last statement in the paragraph—excuse me in the statement, in the memo.

Chairman KERRY. "I am scheduled to testify on the MIA issue before the Subcommittee on National Security Policy and Scientific Development of the House Committee on Foreign Affairs. With your concurrence, I will maintain the position that we do not know whether those now unaccounted for are alive or dead."

Dr. SHIELDS. And I don't think that's in any way inconsistent with the statement that says we don't have information today.

Chairman KERRY. I agree. But please, I do not want to argue with you about this. I want to try to think about it. Think about it with me. Think about it. Do not put your feet in cement and sit there and feel like you have got to defend something. I am not challenging your honor. I am trying to determine whether or not you do not see what America saw out of your statement.

Not your fault, maybe, but what America saw out of your statement were the headlines that I read. You may not have willed that, but that is what happened.

Dr. SHIELDS. Senator Kerry, I can't control the press any more than I could control your tape recorder.

Chairman KERRY. I agree.

Dr. SHIELDS. And when they have that in the press, that's exactly what America hears. But when—I have given that statement to innumerable people since we met last time. And they have looked at this statement; no one has come up with the impression that that said all the men are dead.

Chairman KERRY. But do you not see that when you say that there is no indication that anyone is alive—

Vice Chairman SMITH. What is the difference between that and they are all dead?

Chairman KERRY. You are basically taking somebody in POW status, and you wrote that, and saying we no longer believe that person is a POW.

Dr. SHIELDS. May I use an analogy. Just a little while ago there was an aircraft that was downed in Nepal. And I heard a statement on the press that said there are no indications of any survivors. Now I did not take that to mean that the people in that air

crash were dead. If they were dead, they would have said they were dead.

Chairman KERRY. But there is a huge difference. None of those people in that aircraft had ever been reported held in prison.

Dr. SHIELDS. If I knew that a man had been held in prison and someone told me, that is not a proper indication that he is there now.

Chairman KERRY. That is not a good analogy, Doctor.

Dr. SHIELDS. Well let's use yours, Senator Kerry. A man is held in prison, and I report I don't have an indication that he's alive today. I am not going to go out and report to everyone that he's dead. I would have thought that someone who wanted to say they are all dead could say they're all dead.

Those words weren't used and my words aren't used today. They're not used by you, they're not used by members of the committee. You use the words "they're all dead." Use my words, and then let people decide what I said. That's all I'm saying.

Chairman KERRY. Well why did you not attempt to correct all the press that you read the next day? You had all this press; you did not stand up and correct it.

Dr. SHIELDS. Senator, I made many, many statements. Senator Smith just read from one on May 24 before the Congress in which I talked about—I'll just quickly here again, I guess, if I can find it.

Chairman KERRY. I have been to an awful lot of hearings here as a United States Senator, and most of what is said at them and most of what at on in them, with rare exception, does not get very much reported.

Dr. SHIELDS. Senator, that's the primary avenue we had of communicating with the American people.

Chairman KERRY. Why did not the President of the United States stand up and say the prisoners are not back? Why did not the Secretary of Defense say I stood up a few months ago and I had 14 people I said did not come back and, by God, they are still not back, and why will Americans not care about it?

Dr. SHIELDS. Senator Kerry—

Chairman KERRY. Why not?

Dr. SHIELDS. I would have to say that you have heard the Secretaries of Defense at that time talk about gut feelings. I don't think that they would have said that people were alive based on gut feelings.

Chairman KERRY. Sir, they were known prisoners.

Dr. SHIELDS. Senator Kerry, you asked me about the Secretaries, and I simply—I can't answer for them.

Chairman KERRY. No, I am sorry, sir. You were in charge of the POW unit. You stood there with Secretary Laird when you said there are 14 people on this list and they were supposedly prisoners, one of whom I read of recently, Dodge.

Dr. SHIELDS. No, he was not in that group, Senator.

Chairman KERRY. Well he should have been. His picture was in the newspapers as a prisoner.

Dr. SHIELDS. We only used 14—Senator, the reason that we used 14 was because we never wanted to do, as your committee has done, and say here are the people that we think are prisoner. Be-

cause there are a lot of people out there who could very well have been prisoner, but who were listed as MIA.

Chairman KERRY. But you did choose 14 that you did know were prisoner.

Dr. SHIELDS. No, we did not—Senator, we did not know they were prisoner. We knew that they could have been prisoners. We never had any intelligence that they actually entered the prison system.

Chairman KERRY. That's not what you said on that day.

Dr. SHIELDS. I don't know the press conference transcript.

Chairman KERRY. I will show you. These 14 individuals were at one time identified by the DRV as having been captured, but were not listed on the so-called complete list provided on December 22.

We carried them as POW. We believed they were POW. We held a press conference saying they are POW.

Dr. SHIELDS. All those 14 men, Senator, were not acknowledged by the DRV as having been captured.

Chairman KERRY. Sure, here. Lieutenant Commander Vincent D. Monroe, downed in Ne On Province, North Vietnam, May 18, 1968. Emergency radio signals were received from Lieutenant Commander Monroe and his crew member, whose status as a prisoner has been acknowledged by North Vietnam. Radio Hanoi announced the capture of two pilots at the time and the place of Lieutenant Commander Monroe's loss.

Now you called him a prisoner. They acknowledged him as a prisoner. You stood up and said he was a prisoner. He did not come home, and then you say there are no indications anybody is alive.

Dr. SHIELDS. Not all of those men were prisoners, Senator. Here is Samuel Waters; there was a statement that he was dead. This list was never intended to be exhaustive. And you indicated that when the Secretary of Defense did it, it would receive a lot of attention. Senator, it did not receive any attention, as I have mentioned, even with Secretary Laird.

Chairman KERRY. Sir, this is the transcript of Secretary Laird's press conference. This is what he put out.

Dr. SHIELDS. I don't have access to that. I'm simply saying that we used 14 names as illustrative examples. And what we said on the front of that, and here is the paper itself, Senator, and I'll submit it for the record: Hanoi refuses to disclose the fate of these men. I could not have told those families, Mr. Chairman on April 12, 1973 that I had indications they were alive.

Chairman KERRY. You think—well—

Dr. SHIELDS. And I repeated—

Chairman KERRY. But is this not the distinction that now we have totally gotten hung up on, which is a kind of convenient one for the sake of history but does not deal adequately with the reality at that time.

For instance—let me just finish—not all of the 14 were known to have been captured. Some were known to have reached the ground, and they were heard from on the ground. So the last thing you knew was they were alive on the ground. But some of them you knew had been captured. Now if you know someone has been captured, that is an indication they are alive.

Dr. SHIELDS. Senator Kerry, would you have told Mrs. Hrdlicka on April 12, 1973, or Mrs. Morrison, that their husbands were alive and we had indications they were alive on that date?

Chairman KERRY. I think what I would have said to them is the last information we have is that your husband was alive—

Vice Chairman SMITH. Was listed as prisoner.

Chairman KERRY. And we are determined to find out what happened to him.

Vice Chairman SMITH. Last indication we have is he was listed as a prisoner.

Dr. SHIELDS. And I said in that press conference, which I have just read, I said about men were captured in these areas. I said that. And in combination with the statement that they were captured at one time and we had no indications then, that they were still prisoners, that is an indication that we did not know at that time their status. And what we wanted to do was follow up.

Let me continue, if I can. We'll get back to this; I know time is precious.

Chairman KERRY. Governor Clements has been sitting there for a long time, and I would just like to add something. You testified under oath here on two or three occasions, once in deposition, once before us or twice before us, that you had this now-celebrated meeting with the Governor, which was the first time you had ever met him. He was at Defense and you walked in and you were debating, I suppose, what to go out and say. And you said that Clements said that all the American POWs are dead, correct?

Governor CLEMENTS. I didn't say that.

Dr. SHIELDS. Well, Bill just tells me he didn't say that.

Chairman KERRY. But I am asking what you said to us under oath.

Dr. SHIELDS. I said that in my deposition. But if you'd read the rest of the deposition, Senator Kerry, about what happened when we left the room, I think it would be illuminating, the conclusion of that discussion.

Chairman KERRY. The deposition says—here was the question. The deposition said do you recall a meeting which you had with DepSec Clements early in his tenure at DOD and the following exchange occurred. Clements said all the American POWs are dead. You said you can't say that. Clements said you didn't hear me. I said they're all dead.

Now I asked you that twice, because I was so stunned, and you said that is what happened.

Dr. SHIELDS. Senator, that was my recollection.

Chairman KERRY. You said that under oath.

Dr. SHIELDS. Will you read the rest of that concerning the outcome of that meeting. We've had enough, I think, of reading—I don't want to read this out of context.

Chairman KERRY. Well apparently in the outcome of meeting you argued with him afterwards. Where is the outcome? We are going to get it.

Dr. SHIELDS. I don't think we argued. I think I explained what the outcome of the meeting was, and I think it ought to be read here because it's very important.

Chairman KERRY. I am happy to read it. I do not want to hide anything from the record. He has got to find it; he is going to look for it.

Dr. SHIELDS. The important thing, Senator, is not how we began the meeting. As I've said, Secretary Clements had just arrived and we talked about the very men that you're talking about. May I just say something.

Chairman KERRY. Let me just ask Governor Clements his recollection on that.

Dr. SHIELDS. Yes, OK.

Governor CLEMENTS. I don't think there's any question at all that I said—not in those exact words, but I said that in all likelihood those people over there are probably dead. There's no way, Senator—there's no way that I could have said they are all dead, because I didn't know that. I still don't know that, but I certainly didn't know it at that time.

Chairman KERRY. What was the purpose of saying in all likelihood they are all dead?

Governor CLEMENTS. I didn't say that.

Chairman KERRY. You said in all likelihood.

Governor CLEMENTS. I said in all likelihood they are probably dead. And I would still—I will still stay with that. And at the time in DOD that you're referring to, Admiral Moorer was Chairman of the Joint Chiefs and Elliot Richardson was leaving and shortly thereafter, a matter of 2 or 3 months, Schlesinger came in. There was never any discussion or argument between us that that statement in all likelihood probably was true.

Chairman KERRY. That they were all dead.

Governor CLEMENTS. That they probably and in all likelihood were dead.

Chairman KERRY. Was that the prevailing attitude at DOD?

Governor CLEMENTS. Absolutely. And for these people, like Schlesinger, to come here, this week I guess, and to say that he has now changed his mind and he thinks that there were probably some left alive, I can guarantee you that in the 2½ years in which I served with him in adjoining offices in DOD, he never made such a statement to me.

Now, you know, 20 years later he may have changed his mind and he may have second or third or fourth thoughts about it. But in that time when we were really active and considering the issue and doing everything that we could to determine whether or not there were any live POWs, that certainly was not his opinion at that time.

Chairman KERRY. Well I have some more questions. Let me yield to Senator Smith, and then I will come back.

Vice Chairman SMITH. I really do not know where to begin, Mr. Chairman. Governor Clements, on May 22, you received a memorandum from DIA which showed 65—a number, not by name—number of 65 prisoners of war, that is the title, prisoners of war not accounted for on any enemy lists.

If you got a statement like that from DIA, did you, since you had already made the statement in whatever terms you used, probability that they are all dead or whatever you said, did you question that? Did you question DIA on that?

Governor CLEMENTS. I met with the director of DIA and the major generals in charge of intelligence for all the services once a week. And we had a weekly breakfast, and those sessions would last from anywhere from an hour to 2, 2½ hours. And I can't remember a time when POWs, MIAs were not discussed. So that was a very active subject and it was a continuing subject.

Vice Chairman SMITH. Well the point is when you make a statement like that.

Governor CLEMENTS. Like what?

Vice Chairman SMITH. Like you just said you made. You amended the statement you were quoted as saying, saying in all probability or probably they are all dead.

Governor CLEMENTS. Now wait a minute.

Vice Chairman SMITH. That is what you said.

Governor CLEMENTS. I never said that.

Vice Chairman SMITH. You did not say they are probably all dead.

Governor CLEMENTS. No. I'm talking about the statement that you said that I amended. That was not my statement.

Vice Chairman SMITH. Well then what are you saying? Did you say they are probably all dead? Did you say that?

Governor CLEMENTS. I said that—my statement as I recall it, and of course this is, you know, 20 years later. But I would have said, and I believe that I would probably have said, that in all likelihood they are probably dead.

Vice Chairman SMITH. So General Secord was incorrect in his testimony, is that what you are saying?

Governor CLEMENTS. If he said anything contrary to that, he's incorrect.

Vice Chairman SMITH. OK. Let the record show that. And, Dr. Shields, we all take a beating on this issue and you have taken a fair share of it here today, and I am not trying to do that to do. I, frankly, have some difficulty as to why you want to take all the brunt of this when I do not, frankly, believe you deserve all the brunt of it.

Now I am going to give you another chance. I want you to tell me about the Nixon meeting. That is where we are now, April 11. I want you to lead me into that meeting. Did anybody say anything to you? I just want you to give me some very specific answers, and I want a long discourse. Did anybody say anything to you prior to that meeting, at any time, about what you should or should not say to the President of the United States, yes, or no?

Dr. SHIELDS. Absolutely nothing.

Vice Chairman SMITH. OK.

Dr. SHIELDS. It was not that kind of a meeting.

Vice Chairman SMITH. Did the President of the United States ask you in that meeting, Dr. Shields, are there any indications that anybody is alive in Southeast Asia today as a prisoner of war?

Dr. SHIELDS. I don't recall the specifics, Senator. You would have to get the Watergate tape, if you can find it. My recollection—

Vice Chairman SMITH. I do not have a tape. I have not seen—I am not working from a tape. I will tell you that up front. I do not have it.

Dr. SHIELDS. No, I'm just saying—and I'm not trying to be evasive.

Vice Chairman SMITH. I am not trying to trap you.

Dr. SHIELDS. I'm just saying that my general recollection of that meeting—and I suspect had we talked specifically about a lot of these issues I would have had better recollections. My recollection was that it was a photo opportunity; I have the photograph that was given to me. And it was an attempt to say, from the President, go back and tell all the people who were involved in Homecoming that it was well done, which is what I did, I conveyed that. And to convey to the families my concern about the missing and that we're going to continue our work.

And as I recall, that was the substance of that meeting. There was nothing said about declaring men dead, no thoughts about saying people are dead. I have never believed that, Senator. My own feeling is I don't know. You believe they are alive. Senator Kerry apparently believes they are. Bill here believes they probably are not. I don't know. I do not know.

I do not know and I did not know in April 1973. And that's what I was telling the wives and the brothers and the sons and the husbands of these families. I can't tell you today that those men are alive. I don't have the indications today. It had been a long time since we heard about the specific conditions of men in captivity. I don't know.

But we know people were captured and we have an accounting process and we're going to try and implement that to find out. And if anyone is alive—if anyone is alive, we'll bring them back that way. That's what I was trying to say.

Vice Chairman SMITH. All right. What I am trying to get at—you have got a lot of things that happened here in a very brief span of time. You have to admit that. And I am certainly as much aware as anybody that there are times where headlines are not what you said. And I will grant that; it has happened to me a million times.

But from March 28 to April 12 a heck of a lot of things have happened here that reversed all information that we had in the pipeline on prisoners of war, in Laos especially. And in 2 weeks we went from a memorandum to the President of the United States via the National Security Advisor from the Secretary of Defense saying there are POWs in Laos. Not alleged, there are POWs in Laos, and we had better do something in terms of getting them out before we get out of here.

Now that is essentially what the memorandum said. We went from that to a press conference by the President of the United States the next day which says all POWs are coming home. There are no more living Americans in Indochina, you then said on April 12.

Now who told you to have the press conference? Who directed you to hold that press conference?

Dr. SHIELDS. I think that probably Public Affairs said that we needed to say something. The men who did come home were home and people were waiting for word, and I think that's why the press conference was held.

Vice Chairman SMITH. Did you write your own script or did somebody write that for you. Do not feel bad about my saying that; I have people write mine all the time.

Dr. SHIELDS. I don't think there was a script. We had discussed very specifically what we knew and what we could say. And the fact that we did not know about Laos—I've just detailed four prisoners who were listed as, one of whom was there erroneously, was not a prisoner; one of whom we had good intelligence on had died; and two that we had not heard from for 7 or 8 years.

So we were not—and with regard to the others, we were not going to say we know they have people today. So we tried to say specifically people were captured and didn't come home. We don't have indications that they are alive at this time, we can't attest to that today. If anyone is alive for any reason, we will try and establish that through an accounting for the missing process. We'll try and establish that, and maybe someone will come back from Laos. That's what we said.

Now, Senator, if nothing was done, I am not sure why. First of all, the memo to which you referred said there may be, not are, but may be prisoners. And it said depending on the extent of our knowledge and how strongly we believe it, this is what we should do. I don't see in that any great belief that we were sure prisoners were left behind. You've talked to the Secretaries of Defense at the time, the Chairman of the Joint Chiefs of Staff, and none of them had anything other than a visceral feeling that there were people left behind because of their distrust for the Vietnamese. And on the basis of a visceral feeling, Senator, I couldn't say your husbands, your brothers, your sons, your loved ones are alive. I did not know.

Vice Chairman SMITH. Dr. Shields, all I am saying to you is based on the documents that I have read—not on my opinion, the documents that I have read, the depositions we have taken, the witnesses we have talked to, the information that I have been able to glean from whatever I have been able to see, that is not what went into the pipeline prior to March 28. It was not gut feeling, it was not visceral, it was simply—it was so factual and at least so definitive that the Secretary of Defense made a recommendation to resume the war and risk bringing home the last group of American POWs. And that changed, that changed.

So my question to you is what is the point of a press conference after the President speaks and says all the POWs are home? You are an Assistant Secretary of Defense, you work for Clements. Was Mr. Clements at the meeting?

Dr. SHIELDS. I don't think so. He was not at the press conference.

Vice Chairman SMITH. No, he was not. So it is a little unusual. I mean if I got a staff member of mine who wants to see the President of the United States, I want to know why I am not there. Now he is not there. You had a private meeting with the President of the United States and you come out of that meeting and you hold another press conference. And you say, in addition to what the President already said, there are not any more living Americans.

Now who told you to say that?

Dr. SHIELDS. Senator Smith, I'm under oath, I've told the truth, the record is complete, and I have a statement I'd like to read later that I gave. And I'd like to enter all these in the record.

Vice Chairman SMITH. I know you are under oath and your statement is that no one told you to say that. You made that statement of your own free will. Is that correct?

Dr. SHIELDS. No, I'm not—that's not the statement I want to read.

Vice Chairman SMITH. I am asking you—Dr. Shields, please answer my question. Did you make this statement under your own free will? Did anyone tell you to make that statement, yes or no?

Dr. SHIELDS. The statement was an objective statement of facts and it had been—it had been discussed within the Pentagon on the basis of what we knew.

Vice Chairman SMITH. Did anyone tell you to make that statement?

Dr. SHIELDS. No, no, I was not ordered. And, Senator Smith, I want to tell you I would not have made that statement if I had thought it was wrong. I have been honest in this. My actions have been honorable. Talk to the family members. Ask them whether I told them the truth.

What I was saying—and I don't think I have to defend a statement that says we don't have indications today. Despite all of your intelligence, we did not have intelligence at that time and I had all these loved ones out there, Senator, waiting to find out about whether their loved ones were there.

Vice Chairman SMITH. I am not questioning that. I know your agony over this and I understand it. I am not trying to question that.

Let me move just for a second to Governor Clements. Did you give any indication to Mr. Shields, Dr. Shields, about making a statement on American POWs?

Governor CLEMENTS. I have no recollection of this statement whatsoever.

Dr. SHIELDS. You didn't, Bill, you didn't tell me to say that. Governor CLEMENTS. And, you know, he would have a—he would have contacts with the press and I would know nothing whatsoever about it.

Vice Chairman SMITH. I have one more question. Governor CLEMENTS. I beg your pardon?

Vice Chairman SMITH. Just one more question, and I will yield to my colleague. Why did you, Governor Clements, make a decision to not allow your service secretaries, which as far as I know has never happened before and has not happened since—to not allow your service secretaries to upgrade an individual from an MIA category to a POW category? Why did you make that decision?

Governor CLEMENTS. I don't think that I made such a decision.

Vice Chairman SMITH. You did not make that decision. Is that your statement?

Governor CLEMENTS. I have no recollection of making a decision of that kind. Let me tell you something, Senator, it is very very clear that only classification can be changed within the services. And let's don't get that confused.

Vice Chairman SMITH. "I request that all actions which recommend reclassification of military personnel from missing in action to captured status be submitted to me for approval. Proposed reclassification action should be first routed through the Assistant Secretary of Defense for a preliminary review before referral to me." That was June 8, 1973.

Governor CLEMENTS. That's right.

Vice Chairman SMITH. With your signature.

Governor CLEMENTS. And there's nothing wrong with that.

Vice Chairman SMITH. Let me read this statement, this document. Memorandum for the Secretaries of the Military Departments. Subject: Changes in status of servicemen who did not return from Southeast Asia, August 17, 1973:

Since the last serviceman was repatriated in Operation Homecoming, status changes to deceased have been made only in those cases where positive ID of death was available, or evidence of death. After assessing our progress in the Four-Party Joint Military Team talks and activities with the Joint Casualty Resolution Center, it seems appropriate that the military departments should continue to consider all cases and make status changes to deceased in those cases where they are warranted under the law. And I ask that you make each proposed status change a matter for your personal attention.

Governor CLEMENTS. And I think that's exactly right, and that's just what I said. It's going to be done within the services.

Vice Chairman SMITH. But you did not say that.

Governor CLEMENTS. The hell I didn't. Read it again.

Vice Chairman SMITH. I just read it.

Governor CLEMENTS. That's exactly what I said.

Vice Chairman SMITH. Governor, you directed the secretaries to route it all through you on June 8. And on July 17 you wrote to the President of the United States and you said: In my view the status determination process, as established by law and experience, should be allowed to function as prescribed if we are to maintain fairness, credibility, and consistency.

Governor CLEMENTS. I agree with that.

Vice Chairman SMITH. That is what you said to the President, but that is not what you said on June 8 to the service secretaries.

Governor CLEMENTS. I disagree completely.

Vice Chairman SMITH. Well, my God, I am not going to argue with you, Governor. It is a part of the record.

Governor CLEMENTS. Well you don't have to argue with me, just read it again.

Vice Chairman SMITH. It is a matter of record, the documents are here, and I will let the documents speak for themselves and just remind you you are under oath. No further questions, Mr. Chairman.

Governor CLEMENTS. Well, I take exception to that because the letter that you read clearly states that I want to review what the services say.

Vice Chairman SMITH. Governor, I have got it in your own handwriting. Excuse me, John, just a second. I have it in your own handwriting, Governor. I mean I want—I cannot even read it. I want a memo sent to all departments, services, ASD, DIA, JCS,

that any reclassification from MIA to POW must first be cleared by me—me. That is what you said.

Governor CLEMENTS. I want to review—

Vice Chairman SMITH. In your own handwriting.

Governor CLEMENTS. I want to review every one of them. That's exactly right. This was a very very delicate issue.

Vice Chairman SMITH. Well you did not tell the President that on July 17. You told him the opposite.

Governor CLEMENTS. I think I did, and I want to read that. Presently there are 1,278 military personnel who are unaccounted for as a result of hostilities in Southeast Asia. Of this number, 67—67 are official listed as prisoners of war based on information that—based on information that they reached the ground safely and were captured. That's on the basis of that information. The rest have remained in a missing status, pending analysis of debriefing information.

Chairman KERRY. Can I just interrupt you for a moment, Governor.

Governor CLEMENTS. No, I want to continue to read. Further accounting of comment by the other side or additional intelligence information brought to light since cessation of hostilities. In a significant number of cases only faint hope was ever held about the individual's survival.

Although our returned prisoners—this is important—although our returned prisoners could confirm the death of less than 100 men, they are of the firm opinion that none of the other missing men entered the captivity system. This opinion is significant, in view of the consistency of their reports and the elaborate communications and accounting system which they established while in captivity.

And I stand by that letter.

Vice Chairman SMITH. Well, the documents show differently. I have made my point.

Governor CLEMENTS. I beg your pardon.

Vice Chairman SMITH. The documents show differently, and the record will show that. I have no further argument with you.

Chairman KERRY. Let me ask this question, Governor, in that second paragraph that you were just reading, this is a July document, correct?

Governor CLEMENTS. July 17.

Chairman KERRY. And you said in that document of this number, 67 are officially listed as prisoner of war.

Governor CLEMENTS. They are officially listed as prisoner of war based on information that they reached the ground safely and were captured.

Chairman KERRY. Correct. That is exactly the point I want to make.

Governor CLEMENTS. All right.

Chairman KERRY. You have 67 people in July that you have recorded as on the ground and captured.

Governor CLEMENTS. That's right.

Chairman KERRY. Last known alive captured, correct?

Governor CLEMENTS. That is correct.

Chairman KERRY. Seems to me that is an indication you have people alive in Southeast Asia.

Governor CLEMENTS. All I can tell you is that I made the statement, I said it then, I said it several times, I believe it today, it is 20 years later, there is not one single alive POW come out of that area. I said then that in my judgment, I believe that those people are not alive. I stand by that statement, and 20 years later it is still true.

Chairman KERRY. You do not know that. I mean, you do not know that they were not alive then.

Governor CLEMENTS. I never said that I knew it. I said I believe it.

Chairman KERRY. No, sir. No, what I am asking you is—

Vice Chairman SMITH. You did not know they were dead, either.

Governor CLEMENTS. I beg your pardon?

Vice Chairman SMITH. You did not know they were dead, either.

Dr. SHIELDS. May I just note that on that list, if this is July 1973, a number of men on that list would have been identified as having died in captivity in North and South Vietnam. Those would have been prisoners that we continued on the list because we did not make a status change based on the list. So some of those men, some of those 67 would probably have been on those lists, as I would guess.

Chairman KERRY. And you are saying that the prisoners coming home would have by then have accounted for some of them who died.

Governor CLEMENTS. They would have known about it. That's exactly right.

Dr. SHIELDS. And they did tell us. There was not a man on the list from North Vietnam about whom the returnees felt probably had not died in prison. It squared with everything the knew about the men.

Chairman KERRY. No, I understand that as to Vietnam, but the point I am making is that as of—see, I have been through some of the briefings. In fact, I have even taken the time to read some of those debriefings. Most of those debriefings were completed several months prior to that. And the recordation, the reduction of people, was significantly down.

There were about—I mean, if you look at DOD—I mean, not DOD, excuse me. If you look at General Vessey, he had about 269 possibilities. We uncovered, as we said, some 244 people who looked like you might be able to make a judgment they might have been captured. We did not make a judgment that all of them had been. But they were question marks. They were reduced by 111.

That still left us with 135 and it still left—133, it left General Vessey with 135. You, in July, are still left with 67, by your own account. Now, you have already taken into account the people who came back and who died. Those briefings are several months prior. You are reporting to the President, memorandum of the United States of America on July 17, you folks yourselves are saying 67 are officially listed as prisoner of war, based on information that they reached the ground safely and were captured.

Governor CLEMENTS. Were captured, that's right.

Chairman KERRY. I do not want this to be contentious, but do you not see the problem here? If you have 67 people that the Secretary of Defense is telling the President are prisoners because they reached the ground and they were captured? Do you not understand why people say hey, wait a minute, there is a prisoner of war over there that we have not gotten back? I mean, I know, Dr. Shields, you understand that.

Dr. SHIELDS. Mr. Chairman, I can understand the confusion because a lot of people ask why we did not declare dead the men who were reported as having died in captivity. We did with regard to some in the South because Dr. Kushner, Major Kushner, a military doctor, was there present, and in fact, was able to verify the deaths of a large number of those men, 10 of the 27 men he lived with.

Chairman KERRY. But this is outside of those who died.

Dr. SHIELDS. Well, I'm not sure what that list would be, because as I note in January 1974 we still carried—

Chairman KERRY. Well, why on earth would you tell the President of the United States you have got 67 prisoners of war who landed on the ground and were captured when you have already had the debriefings and you have subtracted the people who died?

Dr. SHIELDS. We may have been to vigorous, Mr. Chairman, in our pursuit of things because we did not accept the lists as valid evidence of death for the men on those lists.

Chairman KERRY. Now, I want to come to the next critical point. Governor, this was your memorandum of July 17, and you talk about Public Law 37 U.S.C. 551558, where the Service Secretaries are specifically charged with the responsibility for status changes. You say at that time this system has been used effectively to make status changes for missing in action, and you send over to the President, for some reason, a fact sheet discussing the provisions of the law, which raises in our minds the question of why the President might have been interested in the status changes, and if he was, why then, at a prior time, had you made a decision personally, in your own handwriting, to require the Service Secretaries for the first time to go through you in order to change somebody?

Now, I understand there were 50—according to your own deposition—there were some 50 to 75 requests by the secretaries to list somebody as POW, not as MIA, and you did not approve any one of those, correct?

Governor CLEMENTS. I really do not have a recollection definitively in that regard at this point about whether I—

Chairman KERRY. Well, let me try to refresh your recollection.

Governor CLEMENTS. Wait a minute, now—whether I approved it or I didn't approve it.

Chairman KERRY. Well, here is your deposition:

Question: So what you are saying is that more cases than those merely required to be brought to you by your June 8, 1973 memo were actually brought to your attention?

Answer: No, I am not saying that. I am saying to you that as these cases developed and it appeared that there was a legitimate POW getting ready to be identified, they would be brought to me as those cases were developed. When they were immediately termed invalid, nothing to it, they never were brought to me.

Question: So about 50 or 75 potentially legitimate cases were brought to your attention, and they all flunked out?

Answer: You said it better than I. That is exactly what I am trying to say to you.

Governor CLEMENTS. I do not have a recollection of that number, and that was used by your staff, and I said well, if that's the number, that's the number.

Dr. SHIELDS. Mr. Chairman, I don't want to interject here, but I cannot recall, and I would have known, the Services, to my recollection, the Services requesting that a number of men be reclassified from missing to prisoner. In fact, I can't recall of a single case where they wanted to reclassify a missing in action to prisoner status.

Chairman KERRY. Well, Governor, I am a little baffled. The conversation goes on:

Question: And they all flunked out?

Answer: They all flunked out.

Question: And it is your testimony that in not one of those cases did anyone actually get to the point of proposing that someone's status be changed from MIA to POW?

Answer: Never.

So you never had to step in, never did step in?

Governor CLEMENTS. I have no recollection of stepping in and changing any of those status. And that number—and I want to repeat myself—that number is definitely not my number, it was used by your staff person. I have no idea whether that is the right number or not.

Chairman KERRY. May I ask you what the rationale was, and there may well be a very good one, but what was the rationale for taking this long-time standing position of the Secretaries of the Service and changing it. Why did you suddenly have to make these reviews?

Governor CLEMENTS. This was most, most delicate situation. There were some very legitimate reasons and cases for changing of status.

Chairman KERRY. Making someone POW.

Governor CLEMENTS. No, KIA or MIA or POW. In other words—

Chairman KERRY. Or POW?

Governor CLEMENTS. Yeah.

Chairman KERRY. So if there was a legitimate reason for somebody to be made POW, why did you have to step in and be the arbiter of that?

Governor CLEMENTS. What I am trying to explain, and I think it is a very understandable situation, there were all kinds of nuances to this particular question. There were widows, there were wives, there were children, there were aunts, uncles, fathers, mothers, friends, and so forth, sweethearts, and the limbo that some of these people were in over a period of years, and as a former POW you certainly can understand this and you know full well what I am talking about, and they wanted the status clarified.

You are not a former POW? I thought you were.

Chairman KERRY. No, that is Senator McCain.

Governor CLEMENTS. All right, McCain. Well, he certainly would understand what I am talking about. I thought you were, too.

Chairman KERRY. No, sir. Some people wish I had been.

[Laughter.]

Governor CLEMENTS. Some people might wish you were still over there.

Chairman KERRY. That may well be.

Governor CLEMENTS. In any event—in any event, it was incumbent upon clarification of these—for these different people.

Chairman KERRY. I am just informed we are on the back end of a vote. I apologize to interrupt you, Governor, but we are at the very end of it. We are going to recess, and then we will come back and close this off.

[Recess.]

Chairman KERRY. The hearing will come to order. My apologies. **Colonel Robson,** you are there. You have been there all afternoon listening to this extraordinary exchange and very, very patient. So let me turn to you for a quick moment, if we can, while others return.

TESTIMONY OF COLONEL LAURENCE ROBSON (USAF RET.), POW SUBCOMMISSION OF FOUR-PARTY JOINT MILITARY COMMISSION

Colonel ROBSON. OK, sir, I was the plans officer in MACV, Personnel Plans Officer, Prisoner of War/Missing in Action, beginning in June 1972. I stayed in that position until January 1973, and at that time, I became the Deputy Chief of the Prisoner of War Subcommittee under the Four-Party Joint Military Commission.

Chairman KERRY. You were based in Saigon at the time?

Colonel ROBSON. Saigon, yes, sir. At the end of the 60-day period during the withdrawal and the repatriation of the prisoners of war, I became the Deputy Chief of the Four-Party Joint Military Team for the missing in action, and I remained in Saigon until early August.

Chairman KERRY. What were your responsibilities in that role?

Colonel ROBSON. As the deputy chief, I attended all of the negotiating sessions with the North Vietnamese. In the absence of the Chief, the U.S. Chief of Delegation, I would chair the meeting on behalf of the United States.

Chairman KERRY. How many meetings did you have with the Vietnamese?

Colonel ROBSON. Well, as I said, there 7 months of them, and there would be two, three, four, sometimes five meetings a week.

Chairman KERRY. And this is between what period of time.

Colonel ROBSON. The first meeting was held on February 3, 1973 and I attended my last meeting on perhaps August 8 or 9, 1973.

Chairman KERRY. During that period of time, did you present to the Vietnamese information regarding live American prisoners of war?

Colonel ROBSON. I presented them what I believe to be the same number of—the same case folders that Dr. Kissinger took to Hanoi on February 12.

Chairman KERRY. How many folders did you present them?

Colonel ROBSON. We presented a total of 104. There were 80-some, plus or minus, that Dr. Kissinger—

Chairman KERRY. These were 80-some people that you believed were prisoners?

Colonel ROBSON. That the other side should have information on. I will not say that they were prisoners, but they are people that they should definitely have information on, Senator.

Chairman KERRY. Well, how many of them did you believe were prisoners?

Colonel ROBSON. I don't recall how many the services had classified as POW, quite frankly. But as I said, there should have been information available on these people because of the status or the nature of their loss.

Chairman KERRY. Well, were you struck by the fact that—I mean, this is a fairly memorable thing, I would think, that when you sit there with the name of a guy in front of you, were you struck by the fact that some of them were captured?

Colonel ROBSON. Yes, sir, or possibly captured?

Chairman KERRY. Well, had some of them been captured?

Colonel ROBSON. They did not appear in the known-captivity environment, as known by the people that came back from Operation Homecoming.

Chairman KERRY. None of them.

Colonel ROBSON. Not to my knowledge, no, sir?

Chairman KERRY. Well, how could that be, because we have looked at the same ones Dr. Kissinger gave, and some of them do. I mean, is that not a fact, Dr. Shields? Were not some people on the 80 list, people we knew to be prisoners?

Dr. SHIELDS. Senator, I would want to see the lists. We always tried to put on lists control names of people that we did not think that they knew anything about and people that we were sure they did know about so we would be able to judge the good faith of their response, and I would guess on the basis of that that some of the names were very good, very hard names and some of the names were people that we frankly knew nothing about. I think it would have been a mixed list.

Chairman KERRY. But you did see the 80-person Dr. Kissinger list.

Dr. SHIELDS. I have seen it before, but I don't remember the names on it. I don't have it in front of me, and I don't think I possess a copy of that, so I don't know what the names would be. If I looked at it, I think I could tell immediately what we knew about that list.

Chairman KERRY. But you have no recollection about it?

Dr. SHIELDS. I remember that in making up the lists we put in people that we thought the other side could account for, some that we expected would have been prisoners, and some that we simply knew nothing about at all in the hopes that they would account for those people because they were on the lists.

Chairman KERRY. So you presented some of those names to the Vietnamese?

Colonel ROBSON. Yes, sir.

Chairman KERRY. And what did—well, let me just come back. I am reminded, Dr. Shields, you knew that 56 people that we carried as prisoners of war were not on the North Vietnamese list, correct?

Dr. SHIELDS. I would have to go back and look at those. The numbers are somewhat—the specific numbers are a little bit vague to me now.

Chairman KERRY. We have the document. I mean, the document was discussed at the highest level of the WSAG, Dr. Kissinger discussed it, other members of that group discussed it.

Dr. SHIELDS. I just don't have these documents, Senator Kerry, and I hate to speak to it without seeing the document. I remember that we certainly had people that we were surprised were not on the list. Some of them in that—

Chairman KERRY. You were at this meeting, this is a meeting that I quoted earlier when we were talking to Admiral Moorer. The Defense Department, and it is either Eagleburger, I think, or yourself speaking. Our list had 591, and the one they gave us consisted of 555, plus 55 who died in captivity.

I am skipping one sentence.

There remained 56 who were previously carried as POWs, but not on either list they gave us.

You had 56 that were carried as POWs. You do not remember that?

Dr. SHIELDS. If this is the list that I have in front of me, I haven't totalled it to know 56, but I see people in here immediately that we anticipated may very well have been prisoners, some that I think we are pretty sure were not.

Chairman KERRY. The list you have is the list of 82. I am just trying to find out if you remember.

Dr. SHIELDS. I don't know. I'd have to look at the names on the list, Senator. I really don't know. I mean, I'd have to have the list when you are talking about 82 individuals.

Chairman KERRY. Dr. Shields, let me ask you something. You really do not remember after all this time and all the interviews we have had with you, you do not remember that there were 56 people who were previously listed as POW who are on the list in discrepancy as of January when they exchanged the list. You do not remember that? That has got to be a very big event in your life.

Dr. SHIELDS. It was a very big event in my life, Senator, and whether the number was 56 or 53—

Chairman KERRY. Well, was it somewhere over 50?

Dr. SHIELDS. I would have to look at the number.

Chairman KERRY. I am asking you to look at the number. 56. That is the number. Look at it. 56.

Dr. SHIELDS. Senator, you are talking about something that happened 19 years ago and you are asking me to talk about 56 or 52. If I had a copy of the list I could tell immediately. But as good as my recall may be, it is not good enough to remember whether the number is 56 or 51 or 47.

Chairman KERRY. Give me an approximation of how many people were listed as prisoners of war when the list of the Vietnamese came out that they did not have.

Dr. SHIELDS. As I recall, we probably had prisoners, people who we listed as prisoners who did not return, I think that the list would have been substantially more than that.

Chairman KERRY. Do you see those lists? Does that refresh you at all?

Dr. SHIELDS. DIA Analysis of Enemy Lists on U.S. Personnel. The numbers of people to be returned—well, they are saying 87. And I was going to say it would have been under a hundred, and I would have thought it was something around 90 or 92 or 93, as I recall.

Chairman KERRY. No wonder you guys had trouble. No wonder we have got troubles today. I mean, here are live human beings, supposedly prisoners, and nobody has got accurate lists, nobody knows anything, nobody is in the loop.

Dr. SHIELDS. Senator Kerry, after 19 years, for you to expect me to remember whether the number is 87 or 56 or 94 seems to me to be very strange.

Chairman KERRY. Well, you remember everything else that is exculpatory with great precision.

Dr. SHIELDS. I have?

Chairman KERRY. I heard a great long recitation this morning with precise things you said, who you went to, where, when, how, what you asked for, how many people you had, but when it comes to remembering that you had 56 prisoners of war that were unaccounted for, your memory goes blank.

Dr. SHIELDS. Senator, by 1974 we listed 57. You have already talked about the confusion of lists. If this is a list that we have here in front of me, then I would recognize that. I do not remember the precise number of people. It was under a hundred, as I recall. But it was high. And I would have thought in the 90's, but I don't remember. And if you really think the United States was in trouble because I can not remember today whether it was 95 or 94, then on that I plead guilty.

Chairman KERRY. I am not talking about the United States, I am talking about this process of accountability for veterans, for soldiers.

Dr. SHIELDS. Senator, when we talked about numbers we talked about people and we talked about very precise people and we usually carried those things with us. We did not go around bandying numbers—134, 240—

Chairman KERRY. Well, you just admitted that you never talked about people to Congress because of the Privacy Act.

Dr. SHIELDS. We did talk to Congress about people. We did—to individual Congressmen we talked about individual cases many times. And I don't think it was just the Privacy Act. I think part of the reason was we had done it once and it did not go very far. But we did talk about people to Congress. I don't think there's any question about it.

Chairman KERRY. Let me continue here with Colonel Robson, then. You had a solid number of people, whether it was 56 or 80 or 90, the committee will try to sort out. But there were a lot of people, less than 100, known to be prisoners. Did you present those to the Vietnamese.

Colonel ROBSON. We did.

Chairman KERRY. You are positive of that?

Colonel ROBSON. I cannot say that they were the exact same names that you are talking about that would be on the DOD list. As I said, we were brought a box of case folders by a visitor from the Pentagon during the negotiations session, and he said these are some case folders, and he explained that these were probably the same ones that had been taken by Dr. Kissinger to Hanoi, and he says you can use these in the negotiations.

As has been talked about many, many times in these hearings, the North Vietnamese did not want to discuss anything other than the people that were on the Paris list during that 60-day period, of course.

Chairman KERRY. Now, when you say during the 60-day period, which one?

Colonel ROBSON. The initial 60-day period beginning with January 29 to the end of March.

Chairman KERRY. After that period, what happened in terms of your effort to gain accounting for those people? Can you describe that for us?

Colonel ROBSON. Yes, sir. We had that series of folders. As I said, approximately 80. I don't remember the exact number. But we also developed some more information. I say we, the services, JCRC, and the intelligence agencies developed more information which was fed to JCRC in Thailand, which in turn was passed back to us, and we ended up with a total of 104 folders with information on people that the enemy should be able to tell us about with any great amount of difficulty. And I personally passed that list and stuff to them, I believe, on April 17.

Chairman KERRY. What kind of response did you get?

Colonel ROBSON. Nothing.

Chairman KERRY. When you say nothing, they just—

Colonel ROBSON. They took it and they said we will study it. The same thing they told Dr. Kissinger in Hanoi.

Chairman KERRY. So in effect, the process that was put in place to get the accounting was truly not working almost from the beginning.

Colonel ROBSON. We had the information. We were passing it to the other side. The problem was we were getting no cooperation from the other side.

And that has been documented for the last 20 years.

Dr. SHIELDS. Here is the list of all the things that were done and presented to Congress, day by day. We passed many lists, Senator. And I don't remember all the names on all the lists, but we passed lists on many, many, many occasions.

Chairman KERRY. When you say you passed lists, you passed lists to?

Dr. SHIELDS. To the other side.

Chairman KERRY. To the other side.

Dr. SHIELDS. Rather than give them 1,300 names or 1,500 names, we said here are some lists for you to look at it, chew on, respond to us. It's not overwhelming. You can look at these specifically and tell us what you have.

Chairman KERRY. Did you sense any frustration in that period, either of you, about your inability to get responses from them?

Colonel ROBSON. Definitely.

Dr. SHIELDS. From the beginning.

Chairman KERRY. What did you do with that frustration? Where did you focus it?

Colonel ROBSON. Well, there's not much you can do, Senator, except to go back and try again, which we did. In the formal sessions and in the—standing in the corner having coffee at coffee breaks, you tried to bring it up to them. We had private meetings at night, in the afternoon, when there were no formal sessions.

Chairman KERRY. Will you concede, both of you, I think all three of you would, that—

Governor CLEMENTS. Don't include me in this, because I wasn't there.

Chairman KERRY. No, sir. But I am sure this is something that—this is a loop you will not mind being in, Governor.

Governor CLEMENTS. I'll wait and see.

[Laughter.]

Chairman KERRY. This is the great pick your loop game, right. Would you agree that—well, no. I was going to ask, what is your sense of what happened then? If you were unable to get the Four-Party Joint Commission to work, you were not able to get the answers—Dr. Shields, you say you went to Congress and nothing sort of happened—what did happen here? I mean, why are we where we are today?

Dr. SHIELDS. We were told the Commission would work out the modalities. They never felt—their position was that the Commission was not to do the accounting. The accounting was to begin with the Four-Party Joint Military Team. And they said that they would work out the modalities. We wanted to begin immediately. And their position was, we don't want to begin the work immediately; we're going to have the Four-Party Joint Military Team in Saigon and they'll do the work.

So that lasted through the February and March period.

Then, in April, we began the sessions. We flew every Friday to Hanoi. We did achieve some early results. We went to Hanoi. We went to cemeteries, and we were shown the graves of men that they said died in captivity.

We anticipated that they would simply allow us to exhume the remains, we'd bring them home, and we would identify them. We learned early on that it was going to be not that easy at all, and we reported that.

Chairman KERRY. Do you think that that may have had anything to do with the problems at that point on other portions of the agreements, specifically, the aid? Do you think that they were saying, well, we are not getting any of that promised aid, we had better hold onto this card a little longer?

Dr. SHIELDS. I think it was more than aid, Senator. It may have been partly aid, but, as I said in my statement, that it was never a humanitarian issue to them. It was never more than part of the battlefield objective of taking over the South.

Chairman KERRY. Oh, I do not question that. I absolutely agree.

Dr. SHIELDS. And I think it was woven into that, the whole part and parcel of the agreement, I would say that aid may have had something. They never approached us about the aid that I can ever recollect.

Colonel ROBSON. They did on an informal basis in Saigon.

Dr. SHIELDS. Yes, they said that's part of the agreement and you're not abiding by it.

Chairman KERRY. They did address you?

Colonel ROBSON. Yes.

Dr. SHIELDS. Yes.

Colonel ROBSON. Yes, sir, they did.

Chairman KERRY. So you began to feel immediately that this aid connection was of importance to them?

Colonel ROBSON. There were several things that were very important to them, Senator. The aid was one. Other things was the activities that were going on back here in the United States. They were very well versed as to what was happening back here in Washington especially.

Chairman KERRY. Well, we are talking about after the cut-off now. The cut-off in Congress took place in—

Colonel ROBSON. No, I'm talking about before the cut-off, sir.

Chairman KERRY. Oh, before the cut-off?

Colonel ROBSON. Yes, sir.

Chairman KERRY. Well, sure, it is well known they were tuned into that.

Colonel ROBSON. In the initial stages of the operation of the Four-Party Joint Military Team, one of the first things we wanted to do was go get those remains of those that had died in captivity, as Dr. Shields has mentioned. We said, that's easy. We can go do it. We've got a weekly flight going to Hanoi. We've got the experts. We've got the graves registration types. We can go exhume them, you know. We can get this done now.

Chairman KERRY. Well, at that point, they were intent on finishing—for them—finishing the war. I mean, the war ended for us when we signed the treaty.

Colonel ROBSON. That's right, sir.

Chairman KERRY. The war did not end for them until 1975.

Colonel ROBSON. Right.

Chairman KERRY. And they knew that.

Colonel ROBSON. Yes, sir.

Chairman KERRY. They understood what their design was. And, frankly, from reading Henry Kissinger's book and other things, it is very clear that we understood. We understood.

Colonel ROBSON. But that did not stop us from trying, Senator.

Chairman KERRY. I understand that. But it raises the question for the committee, in terms of looking at the climate within which we were operating, of how we could have expected to have fulfillment of that agreement, given the larger tensions on the battlefield that existed during that period, for them to conclude their mission.

Dr. SHIELDS. Well, it was very clear that this was not a humanitarian issue. They would stop us in every way they could with roadblocks. They would talk about accounting for their own troops, which was a separate issue completely and was so stated in the negotiations. We didn't want to get involved with the accounting of the Vietnamese parties.

We said that our—and they acknowledged that in the beginning, but then they soon got into the pattern of saying, you can't do that.

They talked about visits to cemeteries and to hospitals and everything on earth but the accounting for the missing. There was never any point—never any attempt on their part to comply with this accounting in good faith.

Chairman KERRY. Now, just a couple of quick questions, and then we are going to wrap up.

Was it not your opinion, Dr. Shields, that we should have had a list ahead of time? I mean, all this list haggling should have gone on before we lost leverage?

Dr. SHIELDS. My own preference would have been to separate the accounting issue completely. Not only with regard to a list, but to separate this completely. Take care of this before you did any of the other things.

Chairman KERRY. But you could not do that realistically, given what they understood was their card?

Dr. SHIELDS. No. Because this is exactly what they were doing. You could not do it. And I think the same thing would have been true with lists. They would have negotiated—they were always great about doing that. When we went to Hanoi for the first time, it was the same kind of thing again.

Chairman KERRY. Well, at a meeting that I read to Dr. Kissinger that took place at the White House, you were there meeting with Dr. Kissinger, and the discussion was going on about the exchange of lists, and you said to Dr. Kissinger, we have to be prepared for a big hue and cry from the relatives of the missing who do not appear on the lists the North Vietnamese give us.

You were warning Dr. Kissinger that this was going to happen. In effect, we have inherited the very warning you issued. Have we not?

Dr. SHIELDS. Well, I think that I anticipated, one, that they were not going to comply with the Ceasefire agreement. I never really felt that it was going to be easy to get compliance. And, two, I was concerned about the fact that some of the people that we felt we should have an accounting for might not have been possible. We lost one airplane within site of the Danang Airfield. A lot of people thought it was in the Hai Van Pass, that the Vietnamese should know about it. We found that it went down in the water offshore.

So I was concerned that some of the things we were going to be asking, even under the best of conditions, they couldn't provide. And so it was very important to have the accounting for those kinds of cases. And I thought that we were going to get hung up on the accounting, too.

Chairman KERRY. Now, Governor Clements, I just wanted to come back to the point you made, not to nitpick, but it is important in terms of this issue. The figure we cited did not come from staff, it came from you. And I read you from page 246 of your deposition.

"Approximately how many cases, individual cases, do you remember being brought to your attention after Homecoming, this is for reclassification?"

"Well, quite a few. And for me to put a number on it would be very difficult."

Question: Was it more of the magnitude of five or 100? Can you give us some idea of how many cases would have brought to your attention?

Not with any accuracy, was your answer.

Question: I'll understand that it's just an approximation.

Answer: Over a 4-year period there could easily have been 50 or 75 cases that were investigated in-depth that would have been brought to my attention.

So, the range was 5 to 100, you picked 50 to 75. Now that is a lot of cases that potentially the service secretary sent to you saying we want to reclassify this person as a POW. If it had been left to them, that person would have been. It was not left to them. You had taken over that authority. The result was none were.

Governor CLEMENTS. I want to correct one thing there. I did not take over that authority, and my actions in this regard were strictly on a review basis, not only as it relates to the MIA/KIA/POW situation, to review that, but also it has to do with the class action lawsuit that was then pending in DOD. And I certainly had a responsibility with respect to that class action lawsuit.

Chairman KERRY. You used the word review, but when the Deputy Secretary of Defense, and Acting Secretary at some periods of time, says, I want a memo sent to all departments that any reclassification from MIA to POW must first be cleared by me, that is a clearance. MIA to KIA is OK within each service. So it was OK to take MIA and put them into KIA, kill them off. But do not make them prisoners. I have got to see it. And nothing happened. Nobody was made a prisoner.

Now, that is a clearance. That is not a—

Governor CLEMENTS. Well, I think it has to do with the choice of words. You know, as far as I'm concerned—

Chairman KERRY. Well, it is your choice of words. And the practical effect—I mean, as a former military person for 4 years of my life, and it was great training and I have great respect for it, I must tell you, when I get something that says cleared by me, I will tell you, the last thing you are going to do is make any decision without getting it upstairs to have it made.

Governor CLEMENTS. Well, I want to emphasize that this was an extremely delicate situation. It had to do with the families, as I've already told you, about the relatives and the wives and the mothers and the father and so forth—

Chairman KERRY. Did you make this decision on your own?

Governor CLEMENTS. I beg your pardon?

Chairman KERRY. Did somebody direct you to review these cases and clear them, or did you make this decision on your own?

Governor CLEMENTS. I don't have any recollection about how that was done, but I certainly had the authority to make it on my own. And I certainly would want to review those cases as it would relate to this class action pending lawsuit. So, you know, what's new? It was clearly within my authority to do it.

Chairman KERRY. I do not have any further questions. Do you have any questions?

Vice Chairman SMITH. Yes, Mr. Chairman.

Thank you, Mr. Chairman.

Colonel Robson, I have one more question I want to ask you. Secretary Kissinger, when he testified, said—we are now talking at the level of your Joint Economic Committee working with the Vietnamese, the Four-Party Military Commission, I am sorry, at that level, there was no linkage, direct linkage between the aid issue and American POWs.

When we deposed Colonel Bernie Russell, who is—
Colonel ROBSON. He was my boss, sir.

Vice Chairman SMITH. Right. The U.S. head of the Four-Party Joint Military Team. He said otherwise. He stated that in early May the Vietnamese were linking U.S. aid commitments to cooperation with the MIAs. And when the vote came, or when the word was passed down to the Vietnamese, or passed to the Vietnamese that there was no aid forthcoming, or at least not in the immediate future, that they stopped cooperating.

Give me your impression—and I realize people have different impressions—I am not trying to make you contradict somebody, but what is your impression of that whole issue?

Colonel ROBSON. There is no contradiction there, sir. That's exactly what happened.

Vice Chairman SMITH. What?

Colonel ROBSON. When they got the word that the aid was cut off, they just—

Vice Chairman SMITH. Bailed out.

Colonel ROBSON. Just started bailing out. I mean, they'd sit and talk to you.

Vice Chairman SMITH. Well, why would they—and this is what I am trying to understand—Dr. Kissinger was very clear about that—no linkage. Now, why would they bail out if they did not feel there was linkage?

Colonel ROBSON. I know there was not supposed to be any linkage, Senator, but in fact there was. They were constantly trying to link things back to—you remember during the prisoner releases they were still trying to hold us responsible for the civilian prisoners that had been captured by the South Vietnamese. So they were constantly trying to link—mix apples and oranges.

Vice Chairman SMITH. Is Dr. Kissinger wrong in that perception?

Colonel ROBSON. I know that he had the agreement, the understanding that there would be no linkage. But what happens in Washington and what happens in that little dusty room in Saigon is two different things, Senator.

Vice Chairman SMITH. You would certainly agree, I guess, that if in fact, for whatever reason, the Vietnamese believed that there was linkage, and the aid vote came, there would be no reason for them to comply with any conditions regarding POWs? Is that a fair assessment? I mean, they certainly could draw that conclusion?

Colonel ROBSON. That's a fair assumption. Plus, as I said, there were other things going on. Remember, they're the most patient people in the world. You know, yes, they took us to the cemeteries. I made both trips up there. I also made trips to other parts of Vietnam during the prisoner releases and stuff like that.

But they would come back and tell us the next day, when some comment or statement or something had been made on the House or the Senate floor, they'd read it back to me verbatim the next day. They would tell me what the Washington Post said about what was going on in Watergate.

Vice Chairman SMITH. Did they ever indicate to you at any time during those meetings that we refused to sign a Joint Economic Commission report which provided very specific categories of aid, tractors, lumber, et cetera, et cetera?

Colonel ROBSON. I don't remember that particular comment. But, you know, it was just part and parcel of all of it.

Vice Chairman SMITH. Did they give you that impression?

Colonel ROBSON. They weren't that specific.

Vice Chairman SMITH. OK. I just want to touch on a couple of other areas before we wrap up.

Governor CLEMENTS, let me go back to you for a second. I put, quite some time ago, a—you said that there was no indication about categories of captured prisoners, and I gave you a document which had that category in it. Do you wish to reconsider your statement now for the record? Or do you still feel the same way on that point? I give you the opportunity to change that if you wish.

Governor CLEMENTS. I want to make sure that we're looking at the same document.

Vice Chairman SMITH. I gave it to you. I do not have it in front of me. But I know what the document is.

Governor CLEMENTS. This is July 17?

Vice Chairman SMITH. No. I am talking about the list of prisoners, the list of prisoners that were listed under current captured category that I gave you from the DIA, I believe it was. Senator Grassley carried it down to you a while back.

You indicated there was no such list. It does not say missing, it says current captured.

Governor CLEMENTS. And what is it you're asking me?

Vice Chairman SMITH. I am asking you, you said there was no such list, and I said I would show it to you. And I have.

Governor CLEMENTS. Oh. Well, you've shown me a list, but, as far as I know, I've never seen it before.

Vice Chairman SMITH. OK. You have never seen it.

Dr. SHIELDS. Senator Smith.

Vice Chairman SMITH. Yes, sir.

Dr. SHIELDS. May I just note that if this is the list, this contains a lot of names of people that the other side declared had died in captivity. The list begins with John Abbott, Arroyo Abayez, Ed Atterbury, on down the line.

Vice Chairman SMITH. Well, I am really referring—

Dr. SHIELDS. So, not all of those people would have been in the status without question.

Vice Chairman SMITH. That is correct. I agree with you. But what I am talking about is the running tabulation that was a cumulative tabulation that was provided on a week-to-week basis of casualties and/or missing—in this case missing—of captured, excuse me, captured, current captured. There are two categories on this thing—three, actually: hostile deaths, current missing, and current captured. That is a very clear distinction. And it is very obvious on every one of these sheets.

So, we cannot muddy any waters here, in terms of what you were getting, in terms of trying to blend together missing and captured. It is very clear.

Governor CLEMENTS. Are you talking about me now?

Vice Chairman SMITH. Yes. I am talking about you, when you said that you never saw any lists of people who were currently captured. And the point I am trying to make is for you, as Senator Kerry questioned you on, to make a decision or to tell the service secretaries they cannot reclassify anybody without your personal approval.

Governor CLEMENTS. I never said that.

Vice Chairman SMITH. Well, you did, Governor.

Governor CLEMENTS. I said I wanted to review it.

Vice Chairman SMITH. Governor, I will let the record stand, Mr. Chairman, on that point. You have a document here, current captured, that is a running document. It was provided to you. And what I am asking you now is, is that current category a real category in your opinion? Is it real or is it not?

When your subordinates provide you a list that says there are currently captured—and I will just give you the week of May 5, 1973—currently captured 72 American POWs.

Governor CLEMENTS. And what is it you're asking me?

Vice Chairman SMITH. Was that a real category in your mind?

Governor CLEMENTS. Well, if I saw this list and had it before me and read it, I certainly could understand it.

Vice Chairman SMITH. So you never saw that list?

Governor CLEMENTS. I have no—

Vice Chairman SMITH. You told the service secretaries that you wanted to review personally all classifications moved from missing to captured, and you never saw this list? Is that your testimony?

Governor CLEMENTS. It is not.

Vice Chairman SMITH. Well, what is it?

Governor CLEMENTS. I said I have no recollection of seeing this list.

Vice Chairman SMITH. You have no recollection of seeing the list?

Governor CLEMENTS. Of seeing this list. I do not have—

Vice Chairman SMITH. Any list? Any list showing current captured?

Governor CLEMENTS. Oh, I'm sure that I did. I have no question about that.

Vice Chairman SMITH. Would you agree that the service secretaries might be in better position to judge whether—they certainly had some input into these numbers, did they not?

Governor CLEMENTS. I'm sure that they did.

Vice Chairman SMITH. Then why did you indicate to them that you had to review anybody who was moved into POW status and not the opposite, as Senator Kerry asked you, if you want to move somebody to a dead status.

Governor CLEMENTS. Because, again, I want to emphasize how delicate an issue this was with the families and the friends and the relationships involved. And we wanted to approach this in a most careful way, and we also, at that time, had a current lawsuit pending on this very issue.

Vice Chairman SMITH. We have got another vote coming unfortunately, and we have to wrap up. Let me just make—I have got one final point I want to make.

First of all, Secretary of Defense Richardson testified that he had seen these documents and he had reviewed those documents. And so at least he saw them.

Let me ask this final point. Gentlemen—

Governor CLEMENTS. I want to emphasize in that regard that Elliot was in the Pentagon and in the Department of Defense for 3½ months. I was there for 4 years.

Vice Chairman SMITH. During Homecoming every man, almost every man who returned—who returned, listen carefully to my question—was carried on DOD tabulations as current captured. Almost every man who returned alive was carried on DOD tabulations as current captured. This tabulation went down as the POWs returned during Homecoming. It went down man by man.

This fact means that real live men were once in the DOD category current captured. Some of those men came home in Operation Homecoming. And after April 12, 1973, DOD tabulations continued to come in. They continued to carry from 81 to 65, the number fluctuated on a weekly basis—81 to 65 men as current captured. Not MIAs. Current captured, the same classification you had on the guys who came home.

Is there any difference pre and post Homecoming? Is there any difference in that category of current captured, any difference in your mind?

Dr. SHIELDS. Yes, Senator. As I said, this list that you were showing Governor Clements had the names of men that they said died in captivity.

Vice Chairman SMITH. I am not talking about that list. I am not talking about that list. I am talking about the current captured status; that is what I am talking about. I am just simply asking you a question. Is there any difference between that list, current captured, which you guys were working down as the prisoners came home. You are still working from the same list, it is down to 81 now and fluctuating between 81 and 65 during this-week to week reporting.

Is there any difference in the current captured list, in your mind, prior to Operation Homecoming and after Operation Homecoming?

Dr. SHIELDS. The definition of the list?

Vice Chairman SMITH. Yes, is there any difference?

Dr. SHIELDS. No, I don't think there would be in the definitions. That would indicate that status changes had not been made.

Vice Chairman SMITH. I am saying list; that is tabulations, and I apologize because that is what confusing. It is tabulations. Is there any difference in those tabulations?

Dr. SHIELDS. It would simply indicate the status of status reviews and where changes had resulted from those reviews.

Vice Chairman SMITH. Well you cannot have it both ways. You cannot have it both ways. If people are currently captured and you have got a list, a tabulation, a number of currently captured, some of those are listed and you have that. And they are coming home and most of the people on the current captured list are coming home in Homecoming, you cannot have it both ways, guys. It is either a real list or it is not.

And you are telling me, and you are telling this committee rather, that as of Operation Homecoming right around, on or about April 12—or March 29, actually, when the President made his statement, that those current captured people on that list or on that tabulation were simply not real. But prior to that, they were real. Now that is what you are saying.

Dr. SHIELDS. No, I'm not saying that Senator.

Vice Chairman SMITH. Well you tell me what you are saying.

Dr. SHIELDS. The men who came back had some information on men who had died in captivity, and very specific, as I mentioned.

Vice Chairman SMITH. That is factored in. That is factored in and that is making the tabulations change. Those are all factored in. This does not—I am sorry, I know what I am talking about—it does not include that. That information is factored in. You cannot use that excuse, guys.

Dr. SHIELDS. So what is the implication? I don't understand the implication.

Vice Chairman SMITH. The implication is that you had a list—had a tabulation. You kept a running tab—

Dr. SHIELDS. That's correct.

Vice Chairman SMITH. Of American POWs. When you got the guys out of Vietnam, you took those off the list, off the tabulation. You then kept the continued running tabulation; it did not change. And you are trying to tell me that the list was no good one day later after the President's announcement.

That is what you are telling this committee. It is what you are telling the American people. That it was fine on March 28, but on March 29 it was no good, and you do not give us any reason for the change. You have been questioned all day on that.

Chairman KERRY. Let me see if I can—

Vice Chairman SMITH. I mean I just—

Dr. SHIELDS. I need to clarify that, because I'm not sure.

Chairman KERRY. Well you had a list of people that you called prisoners of war. And based on it, you had certain assumptions. They are prisoners; you did that in most cases because you knew they were prisoners.

Dr. SHIELDS. Or thought they were.

Governor CLEMENTS. I think there's a difference here in the adjective of we knew or we thought.

Vice Chairman SMITH. All right, Governor, I will give you that, OK.

Governor CLEMENTS. They were classified.

Dr. SHIELDS. They were carried as prisoner. I acknowledge that.

Vice Chairman SMITH. Let me give you that point. I will give you that point. *Thought*. I do not agree with you but I will give you the point for the sake of argument. That means that the 566 who came home, you thought they were prisoners too, did you not?

Governor CLEMENTS. Yeah.

Vice Chairman SMITH. Did you know?

Governor CLEMENTS. No.

Vice Chairman SMITH. You thought.

Governor CLEMENTS. We thought.

Vice Chairman SMITH. What is the difference between the rest of the guys—between those guys and the rest of the guys, on March 29. What is the difference? I am not talking about 1992; I am talking about March 29.

Governor CLEMENTS. Well I think—

Dr. SHIELDS. We did not make status changes except with regard to the information coming back.

Vice Chairman SMITH. You were not letting anybody make status changes, guys. You were saying you cannot make any changes without my approval.

Dr. SHIELDS. No, no, no, Senator, I think you could ask the service secretaries about that. Senator Warner was the Secretary of the Navy at that time, as I recall, and he could tell you about that. They were the ones who were holding reviews. I really think that you should get the Service Secretaries here to do that, because they were the ones who were making the changes.

I'm not familiar with the subject that we're speaking of here. The only changes that I knew were made on the basis of evidence provided by men who came back or what other evidence we would have had. There was no attempt for any general status reviews at that time at all. In fact, we kept the names of the men that they said died in captivity on the list as prisoners of war because we didn't accept the lists.

Vice Chairman SMITH. I think we have to stop here, but all I am saying to you is—I am not trying to argue with you, I am just trying to say to you that you had a tabulation; it was a running tab, it was coming into you by the week. Nothing changed in the way it was reported, nothing changed in the documents that went into the pipeline, the information that went into the pipeline.

Nothing changed. On the contrary, it was reported to the Secretary of Defense that it was valid information. The only thing that changed is you guys made an announcement, or the President made an announcement on March 29 which was totally at odds with all of that data. And that is a fact and you know it is.

Dr. SHIELDS. I see what you're saying, Senator. You're not challenging the status of the list. You're simply saying when we had men carried as prisoner, why did the President say what he did?

Vice Chairman SMITH. Why did you say what you did?

Dr. SHIELDS. Because, Senator, I had not current indications, as I said at that time, that those men were still alive. We did not change the status based on that. The difference is, if a man is dead, I know he's dead. If I don't have an indication he's alive, I don't know whether he's alive or dead.

Vice Chairman SMITH. The difference is there is no difference, and you know it.

Dr. SHIELDS. Senator, I do not know that. With all due respect to you, I made statements repeatedly—and you can talk to family members, you can talk to Members of Congress—many times saying I no longer knew what happened to the men who are carried as prisoner, and for that matter the missing in action.

Chairman KERRY. I agree with that, incidentally.

Vice Chairman SMITH. That is not what I am saying.

Dr. SHIELDS. Thank you, Senator Kerry, that's important to me.

Vice Chairman SMITH. That is not what I am saying, Roger. Let me just say that, Mr. Chairman.

Chairman KERRY. No, it is not—it also is not what Senator Smith is saying. Let me interrupt—

Vice Chairman SMITH. I just want to make this last point to clarify. I agree with you. I am not saying that. I am not saying any more that you knew.

Dr. SHIELDS. Thank you.

Vice Chairman SMITH. I am not challenging that. What I am saying is the data that goes into the makeup of the tabulation, the process of setting that data and establishing that data, is the same

on March 28 as it is on March 29 and April 12. Nothing changed. You were still continuing to get those tabulations, and you made that decision—your decision and the President's comment and the decision by Governor Clements on service secretaries—to simply not abide by that.

Dr. SHIELDS. Senator, I understand your consternation and concern. And I am concerned too, because I read a statement by General Tighe before Congress in 1981 that said based on his detailed research efforts, as frustrating as it was that he knew, in fact—we know, in fact, that we cannot say that Americans, in fact, are being held against their will there.

I really think, respectfully, that we should do what I suggested in 1979, and I would like to submit my testimony at that time. Senator Kerrey of Nebraska said a couple of days ago that I had kept a lot of this information from the American public and that I was one of the ringleaders in masking this situation.

I made statements before the House Subcommittee on Asian and Pacific Affairs in 1979 which made a number of suggestions. I spoke about Tucker Gougelmann. I spoke about Robert Garwood. I spoke about men that we knew were captured—not by name, but said that they had been captured and that they didn't come home.

I talked about a number of things in there, and about my concern about the Vietnamese and the fact that on an individual basis I knew that Vietnam could account for a great number of our men. I still believe that. I also suggested at the end that we have a volume—that it contain all of the information, a photograph and all of the relevant information pertaining to every man who did not come home.

And in that testimony I said: It would be a fitting tribute to these brave men and an open statement from the Government that it was concealing no pertinent information relating to an individual's status. I also said a memorial volume would at least leave an open record which could become an active file in the future if conditions permitted.

Had we done that, had the Congress accepted that, we would be further along now. That is a strange request from a man who's leading an attempt to cover up anything. I was not. I think that shows that.

I would make the request, again, as you've discussed the case of David Hrdlicka, of Commander Blackburn, of others here. The precedent has been set and I would suggest that we have the DIA come in here and beginning with your cases of 135, discuss openly before the American people the cases of all these men so there would be no more confusion about what we knew on April 12, 1973, and after.

Chairman KERRY. I agree. Well, I think that is a very good idea. And incidentally, we are already reviewing all those cases. I have read a number of them, and I must say to you that I—and, you know, I have tried to be careful as we go through this. Some of the cases I find very powerful that somebody was a prisoner, but some of them I find it very hard to see any evidence in the knowledge we had that we could say the person was a prisoner.

And I think it is very important that the public make their own judgments about it, that those be out in the open.

Dr. SHIELDS. And let me know, sir.

Chairman KERRY. Now we have got to go vote, so I need to just close up a couple of things. The other thing I want to say is, Dr. Shields, you have been subjected to one of the sort of tougher rounds of questioning in the two times you have been here. I know you can appreciate why that has been so. You know, we have had to ask a lot of tough questions.

I want to say that I think you have provided a lot of answers. I think you personally did take things to the Congress and to others that, for whatever reasons, never bubbled up, never gained a life, never happened.

Now one can question what might have happened if a Secretary of Defense or President had chosen to make this issue differently, but the record ought to be clear that within your capacity and your ability you were not hiding this.

I do think your statement was unfortunate. But you, yourself, came to recognize that your statement had become a problem and you sought to change it. And I think maybe you ought to try to bounce with that one more easily, but I understand the defensiveness. You have been subjected to a lot of tough questions.

Dr. SHIELDS. Senator Kerry, it was not defensiveness. It was long association with the families of these men and knowing that they were waiting on April 12 to know what happened to their loved one. And I could tell them your husband, your son, your brother was a prisoner at one time. Then they would have said what about today, and I would have had to say today I don't know.

Chairman KERRY. I understand.

Dr. SHIELDS. And so I said that very specifically in that statement. I said there were prisoners that did not come home, and I said as of today I have no knowledge about their current status.

Chairman KERRY. Regrettably, the statement came out differently, the policy came out differently. And I must say to you the President in his statements nationally was not helping you. Even in the debate we had, little round, with Senator Dole here, it is clear that Senator Dole in that very statement referred to the prisoners being home. It became folklore.

Dr. SHIELDS. Senator, as long as I was in the Department of Defense the policy was we did not know. There was never an attempt to write any man off. You have talked to the Secretaries who had no feeling, after all the intelligence, other than a gut feeling.

Chairman KERRY. Well we have got to go. The key issue here, and the record is now becoming very clear as to what was really being carried in DOD versus what was outside in popular belief. And it may be, as you say, that it was not hidden. It certainly was not out there either.

Dr. SHIELDS. If we can—

Chairman KERRY. Second—let me just complete this, and I will give you a chance to make any additional comments for the record, but we need to complete a certain amount of this examination. But the other thing the committee needs to make certain is that in these last wrap-up months we deal with the reality of those possible cases, and I think that is an important evaluation.

Governor, I have got to go vote or I am going to be in trouble and you understand that better than anybody. I know that. So I want

to thank you. You folks have been here a long time and I appreciate enormously your willingness to come and testify.

Colonel Robson, I know we want to follow up a little bit on the Joint Military piece in writing, if we can, and gain a little more understanding of it. But it has been helpful in terms of the public hearing, and we are very grateful to you for coming today.

We are adjourned.

Dr. SHIELDS. May I submit these documents for the record, Senator?

Chairman KERRY. Absolutely. Make sure staff gets them. Thank you very much.

[Whereupon, at 7:07 p.m., the hearing adjourned.]

APPENDIX

THE VIETNAM AGREEMENT AND PROTOCOLS, SIGNED JANUARY 27, 1973¹

AGREEMENT ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM

The Parties participating in the Paris Conference on Vietnam, With a view to ending the war and restoring peace in Vietnam on the basis of respect for the Vietnamese people's fundamental national rights and the South Vietnamese people's right to self-determination, and to contributing to the consolidation of peace in Asia and the world,

Have agreed on the following provisions and undertake to respect and to implement them:

Chapter I

THE VIETNAMESE PEOPLE'S FUNDAMENTAL NATIONAL RIGHTS

Article 1

The United States and all other countries respect the independence, sovereignty, unity, and territorial integrity of Vietnam as recognized by the 1954 Geneva Agreements on Vietnam.

Chapter II

CESSATION OF HOSTILITIES—WITHDRAWAL OF TROOPS

Article 2

A cease-fire shall be observed throughout South Vietnam as of 2400 hours G.M.T., on January 27, 1973.

At the same hour, the United States will stop all its military activities against the territory of the Democratic Republic of Vietnam by ground, air and naval forces, wherever they may be based, and end the mining of the territorial waters, ports, harbors, and waterways of the Democratic Republic of Vietnam. The United States will remove, permanently deactivate or destroy all the mines in the territorial waters, ports, harbors, and waterways of North Vietnam as soon as this Agreement goes into effect.

The complete cessation of hostilities mentioned in this Article shall be durable and without limit of time.

Article 3

The parties undertake to maintain the cease-fire and to ensure a lasting and stable peace.

As soon as the cease-fire goes into effect:

(a) The United States forces and those of the other foreign countries allied with the United States and the Republic of Vietnam shall remain in-place pending the implementation of the plan of troop withdrawal. The Four-Party Joint Military Commission described in Article 10 shall determine the modalities.

(b) The armed forces of the two South Vietnamese parties shall remain in-place. The Two-Party Joint Military Commission described in Article 17 shall determine the areas controlled by each party and the modalities of stationing.

(c) The regular forces of all services and arms and the irregular forces of the parties in South Vietnam shall stop all offensive activities against each other and shall strictly abide by the following stipulations:

All acts of force on the ground, in the air, and on the sea shall be prohibited:
All hostile acts, terrorism and reprisals by both sides will be banned.

Article 4

The United States will not continue its military involvement or intervene in the internal affairs of South Vietnam.

Article 5

Within sixty days of the signing of this Agreement, there will be a total withdrawal from South Vietnam of troops, military advisers, and military personnel, including technical military personnel and military personnel associated with the pacification program, armaments, munitions, and war material of the United States and those of the other foreign countries mentioned in Article 3 (a). Advisers from the above-mentioned countries to all paramilitary organizations and the police force will also be withdrawn within the same period of time.

Article 6

The dismantlement of all military bases in South Vietnam of the United States and of the other foreign countries mentioned in Article 3 (a) shall be completed within sixty days of the signing of this Agreement.

¹ Weekly Compilation of Presidential Documents, Jan. 29, 1973, pp. 46-64.

Article 7

From the enforcement of the cease-fire to the formation of the government provided for in Articles 9 (b) and 14 of this Agreement, the two South Vietnamese parties shall not accept the introduction of troops, military advisers, and military personnel including technical military personnel, armaments, munitions, and war material into South Vietnam.

The two South Vietnamese parties shall be permitted to make periodic replacement of armaments, munitions and war material which have been destroyed, damaged, worn out or used up after the cease-fire, on the basis of piece-for-piece, of the same characteristics and properties, under the supervision of the Joint Military Commission of the two South Vietnamese parties and of the International Commission of Control and Supervision.

Chapter III

THE RETURN OF CAPTURED MILITARY PERSONNEL AND FOREIGN CIVILIANS, AND CAPTURED AND DETAINED VIETNAMESE CIVILIAN PERSONNEL

Article 8

(a) The return of captured military personnel and foreign civilians of the parties shall be carried out simultaneously with and completed not later than the same day as the troop withdrawal mentioned in Article 5. The parties shall exchange complete lists of the above-mentioned captured military personnel and foreign civilians on the day of the signing of this Agreement.

(b) The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action.

(c) The question of the return of Vietnamese civilian personnel captured and detained in South Vietnam will be resolved by the two South Vietnamese parties on the basis of the principles of Article 21 (b) of the Agreement on the Cessation of Hostilities in Vietnam of July 20, 1954. The two South Vietnamese parties will do so in a spirit of national reconciliation and concord, with a view to ending hatred and enmity, in order to ease suffering and to reunite families. The two South Vietnamese parties will do their utmost to resolve this question within ninety days after the cease-fire comes into effect.

Chapter IV

THE EXERCISE OF THE SOUTH VIETNAMESE PEOPLE'S RIGHT TO SELF-DETERMINATION

Article 9

The Government of the United States of America and the Government of the Democratic Republic of Vietnam undertake to respect the following principles for the exercise of the South Vietnamese people's right to self-determination:

(a) The South Vietnamese people's right to self-determination is sacred, inalienable, and shall be respected by all countries.

(b) The South Vietnamese people shall decide themselves the political future of South Vietnam through genuinely free and democratic general elections under international supervision.

(c) Foreign countries shall not impose any political tendency or personality on the South Vietnamese people.

Article 10

The two South Vietnamese parties undertake to respect the cease-fire and maintain peace in South Vietnam, settle all matters of contention through negotiations, and avoid all armed conflict.

Article 11

Immediately after the cease-fire, the two South Vietnamese parties will:

Achieve national reconciliation and concord, end hatred and enmity, prohibit all acts of reprisal and discrimination against individuals or organizations that have collaborated with one side or the other;

Ensure the democratic liberties of the people: personal freedom, freedom of speech, freedom of the press, freedom of meeting, freedom of organization, freedom of political activities, freedom of belief, freedom of movement, freedom of residence, freedom of work, right to property ownership, and right to free enterprise.

Article 12

(a) Immediately after the cease-fire, the two South Vietnamese parties shall hold consultations in a spirit of national reconciliation and concord, mutual respect, and mutual non-elimination to set up a National Council of National Reconciliation and Concord of three equal segments. The Council shall operate

on the principle of unanimity. After the National Council of National Reconciliation and Concord has assumed its functions, the two South Vietnamese parties will consult about the formation of councils at lower levels. The two South Vietnamese parties shall sign an agreement on the internal matters of South Vietnam as soon as possible and do their utmost to accomplish this within ninety days after the cease-fire comes into effect, in keeping with the South Vietnamese people's aspirations for peace, independence and democracy.

(b) The National Council of National Reconciliation and Concord shall have the task of promoting the two South Vietnamese parties' implementation of this Agreement, achievement of national reconciliation and concord and ensurance of democratic liberties. The National Council of National Reconciliation and Concord will organize the free and democratic general elections provided for in Article 9 (b) and decide the procedures and modalities of these general elections. The institutions for which the general elections are to be held will be agreed upon through consultations between the two South Vietnamese parties. The National Council of National Reconciliation and Concord will also decide the procedures and modalities of such local elections as the two South Vietnamese parties agree upon.

Article 13

The question of Vietnamese armed forces in South Vietnam shall be settled by the two South Vietnamese parties in a spirit of national reconciliation and concord, equality and mutual respect, without foreign interference, in accordance with the postwar situation. Among the questions to be discussed by the two South Vietnamese parties are steps to reduce their military effectives and to demobilize the troops being reduced. The two South Vietnamese parties will accomplish this as soon as possible.

Article 14

South Vietnam will pursue a foreign policy of peace and independence. It will be prepared to establish relations with all countries irrespective of their political and social systems on the basis of mutual respect for independence and sovereignty and accept economic and technical aid from any country with no political conditions attached. The acceptance of military aid by South Vietnam in the future shall come under the authority of the government set up after the general elections in South Vietnam provided for in Article 9 (b).

Chapter V

THE REUNIFICATION OF VIETNAM AND THE RELATIONSHIP BETWEEN NORTH AND SOUTH VIETNAM

Article 15

The reunification of Vietnam shall be carried out step by step through peaceful means on the basis of discussions and agreements between North and South Vietnam, without coercion or annexation by either party, and without foreign interference. The time for reunification will be agreed upon by North and South Vietnam.

Pending reunification:

(a) The military demarcation line between the two zones at the 17th parallel is only provisional and not a political or territorial boundary, as provided for in paragraph 6 of the Final Declaration of the 1954 Geneva Conference.

(b) North and South Vietnam shall respect the Demilitarized Zone on either side of the Provisional Military Demarcation Line.

(c) North and South Vietnam shall promptly start negotiations with a view to reestablishing normal relations in various fields. Among the questions to be negotiated are the modalities of civilian movement across the Provisional Military Demarcation Line.

(d) North and South Vietnam shall not join any military alliance or military bloc and shall not allow foreign powers to maintain military bases, troops, military advisers, and military personnel on their respective territories, as stipulated in the 1954 Geneva Agreements on Vietnam.

Chapter VI

THE JOINT MILITARY COMMISSIONS, THE INTERNATIONAL COMMISSION OF CONTROL AND SUPERVISION, THE INTERNATIONAL CONFERENCE

Article 16

(a) The Parties participating in the Paris Conference on Vietnam shall immediately designate representatives to form a Four-Party Joint-Military Commission with the task of ensuring joint action by the parties in implementing the following provisions of this Agreement:

The first paragraph of Article 2, regarding the enforcement of the cease-fire throughout South Vietnam;

Article 3(a), regarding the cease-fire by U.S. forces and those of the other foreign countries referred to in that Article;

Article 3(c), regarding the cease-fire between all parties in South Vietnam;

Article 5, regarding the withdrawal from South Vietnam of U.S. troops and those of the other foreign countries mentioned in Article 3(a);

Article 6, regarding the dismantlement of military bases in South Vietnam of the United States and those of the other foreign countries mentioned in Article 3(a);

Article 8(a), regarding the return of captured military personnel and foreign civilians of the parties;

Article 8(b), regarding the mutual assistance of the parties in getting information about those military personnel and foreign civilians of the parties missing in action.

(b) The Four-Party Joint Military Commission shall operate in accordance with the principle of consultations and unanimity. Disagreements shall be referred to the International Commission of Control and Supervision.

(c) The Four-Party Joint Military Commission shall begin operating immediately after the signing of this Agreement and end its activities in sixty days, after the completion of the withdrawal of U.S. troops and those of the other foreign countries mentioned in Article 3(a) and the completion of the return of captured military personnel and foreign civilians of the parties.

(d) The four parties shall agree immediately on the organization, the working procedure, means of activity, and expenditures of the Four-Party Joint Military Commission.

Article 17

(a) The two South Vietnamese parties shall immediately designate representatives to form a Two-Party Joint Military Commission with the task of ensuring joint action by the two South Vietnamese parties in implementing the following provisions of this Agreement:

The first paragraph of Article 2, regarding the enforcement of the cease-fire throughout South Vietnam, when the Four-Party Joint Military Commission has ended its activities;

Article 3(b), regarding the cease-fire between the two South Vietnamese parties;

Article 3(c), regarding the cease-fire between all parties in South Vietnam, when the Four-Party Joint Military Commission has ended its activities;

Article 7, regarding the prohibition of the introduction of troops into South Vietnam and all other provisions of this article;

Article 8(c), regarding the question of the return of Vietnamese civilian personnel captured and detained in South Vietnam;

Article 13, regarding the reduction of the military effectives of the two South Vietnamese parties and the demobilization of the troops being reduced.

(b) Disagreements shall be referred to the International Commission of Control and Supervision.

(c) After the signing of this Agreement, the Two-Party Joint Military Commission shall agree immediately on the measures and organization aimed at enforcing the cease-fire and preserving peace in South Vietnam.

Article 18

(a) After the signing of this Agreement, an International Commission of Control and Supervision shall be established immediately.

(b) Until the International Conference provided for in Article 19 makes definitive arrangements, the International Commission of Control and Supervision will report to the four parties of matters concerning the control and supervision of the implementation of the following provisions of this Agreement:

The first paragraph of Article 2, regarding the enforcement of the cease-fire throughout South Vietnam;

Article 3(a), regarding the cease-fire by U.S. forces and those of other foreign countries referred to in that Article;

Article 3(c), regarding the cease-fire between all the parties in South Vietnam;

Article 5, regarding the withdrawal from Vietnam of U.S. troops and those of the other foreign countries mentioned in Article 3(a);

Article 6, regarding the dismantlement of military bases in South Vietnam of the United States and those of the other foreign countries mentioned in Article 3(a);

Article 8(a), regarding the return of captured military personnel and foreign civilians of the parties.

The International Commission of Control and Supervision shall form control teams for carrying out its task. The four parties shall agree immediately on the location and operation of these teams. The parties will facilitate their operation.

(c) Until the International Conference makes definitive arrangements, the International Commission of Control and Supervision will report to the two South Vietnamese parties on matters concerning the control and supervision of the implementation of the following provisions of this Agreement:

The first paragraph of Article 2, regarding the enforcement of the cease-fire throughout South Vietnam, when the Four-Party Joint Military Commission has ended its activities;

Article 3(b), regarding the cease-fire between the two South Vietnamese parties;

Article 3(c), regarding the cease-fire between all parties in South Vietnam, when the Four-Party Joint Military Commission has ended its activities;

Article 7, regarding the prohibition of the introduction of troops into South Vietnam and all other provisions of this Article;

Article 8(c), regarding the question of the return of Vietnamese civilian personnel captured and detained in South Vietnam;

Article 9(b), regarding the free and democratic general elections in South Vietnam;

Article 13, regarding the reduction of the military effectives of the two South Vietnamese parties and the demobilization of the troops being reduced.

The International Commission of Control and Supervision shall form control teams for carrying out its tasks. The two South Vietnamese parties shall agree immediately on the location and operation of these teams. The two South Vietnamese parties will facilitate their operation.

(d) The International Commission of Control and Supervision shall be composed of representatives of four countries: Canada, Hungary, Indonesia and Poland. The chairmanship of this Commission will rotate among the members for specific periods to be determined by the Commission.

(e) The International Commission of Control and Supervision shall carry out its tasks in accordance with the principle of respect for the sovereignty of South Vietnam.

(f) The International Commission of Control and Supervision shall operate in accordance with the principle of consultations and unanimity.

(g) The International Commission of Control and Supervision shall begin operating when a cease-fire comes into force in Vietnam. As regards the provisions in Article 18(b) concerning the four parties, the International Commission of Control and Supervision shall end its activities when the Commission's mission of control and supervision regarding these provisions have been fulfilled. As regards the provisions in Article 18(c) concerning the two South Vietnamese parties, the International Commission of Control and Supervision shall end its activities on the request of the government formed after the general elections in South Vietnam provided for in Article 9(b).

(h) The four parties shall agree immediately on the organization, means of activity, and expenditures of the International Commission of Control and Supervision. The relationship between the International Commission and the International Conference will be agreed upon by the International Commission and the International Conference.

The parties agree on the convening of an International Conference within thirty days of the signing of this Agreement to acknowledge the signed agreements; to guarantee the ending of the war, the maintenance of peace in Vietnam; the respect of the Vietnamese people's fundamental national rights; and the South Vietnamese people's rights to self-determination; and to contribute to and guarantee peace in Indochina.

The United States and the Democratic Republic of Vietnam, on behalf of the parties participating in the Paris Conference on Vietnam, will propose to the following parties that they participate in this International Conference: the People's Republic of China, the Republic of France, the Union of Soviet Socialist Republics, the United Kingdom, the four countries of the International Commission of Control and Supervision, and the Secretary General of the United Nations, together with the parties participating in the Paris Conference on Vietnam.

Chapter VII

REGARDING CAMBODIA AND LAOS

Article 20

(a) The parties participating in the Paris Conference on Vietnam shall strictly respect the 1954 Geneva Agreement on Cambodia and the 1962 Geneva Agreements on Laos, which recognized the Cambodian and the Lao peoples' fundamental national rights, i.e., the independence, sovereignty, unity, and territorial integrity of these countries. The parties shall respect the neutrality of Cambodia and Laos.

The parties participating in the Paris Conference on Vietnam undertake to refrain from using the territory of Cambodia and the territory of Laos to encroach on the sovereignty and security of one another and of other countries.

(b) Foreign countries shall put an end to, all military activities in Cambodia and Laos, totally withdraw from and refrain from reintroducing into these two countries troops, military advisers and military personnel, armaments, munitions and war material.

(c) The internal affairs of Cambodia and Laos shall be settled by the people of each of these countries without foreign interference.

(d) The problems existing between the Indochinese countries shall be settled by the Indochinese parties on the basis of respect for each other's independence, sovereignty, and territorial integrity, and non-interference in each other's internal affairs.

Chapter VIII

THE RELATIONSHIP BETWEEN THE UNITED STATES AND THE DEMOCRATIC REPUBLIC OF VIETNAM

Article 21

The United States anticipates that this Agreement will usher in an era of reconciliation with the Democratic Republic of Vietnam as with all the peoples of Indochina. In pursuance of its traditional policy, the United States will contribute to healing the wounds of war and to postwar reconstruction of the Democratic Republic of Vietnam and throughout Indochina.

Article 22

The ending of the war, the restoration of peace in Vietnam, and the strict implementation of this Agreement will create conditions for establishing a new, equal and mutually beneficial relationship between the United States and the Democratic Republic of Vietnam on the basis of respect for each other's independence and sovereignty, and non-interference in each other's internal affairs. At the same time this will ensure stable peace in Vietnam and contribute to the preservation of lasting peace in Indochina and Southeast Asia.

Chapter IX

OTHER PROVISIONS

Article 23

This Agreement shall enter into force upon signature by plenipotentiary representatives of the parties participating in the Paris Conference on Vietnam. All the parties concerned shall strictly implement this Agreement and its Protocols. Done in Paris this twenty-seventh day of January, One Thousand Nine Hundred and Seventy-Three, in Vietnamese and English. The Vietnamese and English texts are official and equally authentic.

[Separate Numbered Page]

For the Government of the United States of America:

WILLIAM P. ROGERS,
Secretary of State.

For the Government of the Republic of Vietnam:

TRAN VAN LAM,
Minister for Foreign Affairs.

[Separate Numbered Page]

For the Government of the Democratic Republic of Vietnam:

NGUYEN DUY TRINH,
Minister for Foreign Affairs.

For the Provisional Revolutionary Government of the Republic of South Vietnam:

NGUYEN THI BINH,
Minister for Foreign Affairs.

AGREEMENT ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM

The Government of the United States of America, with the concurrence of the Government of the Republic of Vietnam,

The Government of the Democratic Republic of Vietnam, with the concurrence of the Provisional Revolutionary Government of the Republic of South Vietnam,

With a view to ending the war and restoring peace in Vietnam on the basis of respect for the Vietnamese people's fundamental national rights and the South Vietnamese people's right to self-determination, and to contributing to the consolidation of peace in Asia and the world,

Have agreed on the following provisions and undertake to respect and to implement them:

[Text of Agreement Chapters I-VIII Same As Above]

Chapter IX

OTHER PROVISIONS

Article 23

The Paris Agreement on Ending the War and Restoring Peace in Vietnam shall enter into force upon signature of this document by the Secretary of State of the Government of the United States of America and the Minister for Foreign Affairs of the Government of the Democratic Republic of Vietnam, and upon signature of a document in the same terms by the Secretary of State of the Government of the United States of America, the Minister for Foreign Affairs of the Government of the Republic of Vietnam, the Minister for Foreign Affairs of the Government of the Democratic Republic of Vietnam, and the Minister for Foreign Affairs of the Provisional Revolutionary Government of the Republic of South Vietnam. The Agreement and the protocols to it shall be strictly implemented by all the parties concerned.

Done in Paris this twenty-seventh day of January, One Thousand Nine Hundred and Seventy Three, in Vietnamese and English. The Vietnamese and English texts are official and equally authentic.

For the Government of the United States of America:

WILLIAM P. ROGERS,
Secretary of State.

For the Government of the Democratic Republic of Vietnam:

NGUYEN DUY TRINH,
Minister for Foreign Affairs.

Protocol on Prisoners and Detainees

(White House press release dated January 24)

PROTOCOL TO THE AGREEMENT ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM CONCERNING THE RETURN OF CAPTURED MILITARY PERSONNEL AND FOREIGN CIVILIANS AND CAPTURED AND DETAINED VIETNAMESE CIVILIAN PERSONNEL

The Parties participating in the Paris Conference on Vietnam.

In implementation of Article 8 of the Agreement on Ending the War and Restoring Peace in Vietnam signed on this date providing for the return of captured military personnel and foreign civilians, and captured and detained Vietnamese civilian personnel:

Have agreed as follows:

THE RETURN OF CAPTURED MILITARY PERSONNEL AND FOREIGN CIVILIANS

Article 1

The parties signatory to the Agreement shall return the captured military personnel of the parties mentioned in Article 8(a) of the Agreement as follows:

All captured military personnel of the United States and those of the other foreign countries mentioned in Article 3(a) of the Agreement shall be returned to United States authorities;

All captured Vietnamese military personnel, whether belonging to regular or irregular armed forces, shall be returned to the two South Vietnamese parties; they shall be returned to that South Vietnamese party under whose command they served.

Article 2

All captured civilians who are nationals of the United States or of any other foreign countries mentioned in Article 3(a) of the Agreement shall be returned to United States authorities. All other captured foreign civilians shall be returned to the authorities of their country of nationality by any one of the parties willing and able to do so.

Article 3

The parties shall today exchange complete lists of captured persons mentioned in Articles 1 and 2 of this Protocol.

Article 4

(a) The return of all captured persons mentioned in Articles 1 and 2 of this Protocol shall be completed within sixty days of the signing of the Agreement at a rate no slower than the rate of withdrawal from South Vietnam of United States forces and those of the other foreign countries mentioned in Article 5 of the Agreement.

(b) Persons who are seriously ill, wounded or maimed, old persons and women shall be returned first. The remainder shall be returned either by returning all from one detention place after another or in order of their dates of capture, beginning with those who have been held the longest.

Article 5

The return and reception of the persons mentioned in Articles 1 and 2 of this Protocol shall be carried out at places convenient to the concerned parties. Places of return shall be agreed upon by the Four-Party Joint Military Commission. The parties shall ensure the safety of personnel engaged in the return and reception of those persons.

Article 6

Each party shall return all captured persons mentioned in Articles 1 and 2 of this Protocol without delay and shall facilitate their return and reception. The detaining parties shall not deny or delay their return for any reason, including the fact that captured persons may, on any grounds, have been prosecuted or sentenced.

THE RETURN OF CAPTURED AND DETAINED VIETNAMESE CIVILIAN PERSONNEL

Article 7

(a) The question of the return of Vietnamese civilian personnel captured and detained in South Vietnam will be resolved by the two South Vietnamese parties on the basis of the principles of Article 21 (b) of the Agreement on the Cessation of Hostilities in Vietnam of July 20, 1954, which reads as follows:

"The term 'civilian internees' is understood to mean all persons who, having in any way contributed to the political and armed struggle between the two parties, have been arrested for that reason and have been kept in detention by either party during the period of hostilities."

(b) The two South Vietnamese parties will do so in a spirit of national reconciliation and concord with a view to ending hatred and enmity in order to ease suffering and to reunite families. The two South Vietnamese parties will do their utmost to resolve this question within ninety days after the cease-fire comes into effect.

(c) Within fifteen days after the cease-fire comes into effect, the two South Vietnamese parties shall exchange lists of the Vietnamese civilian personnel captured and detained by each party and lists of the places at which they are held.

TREATMENT OF CAPTURED PERSONS DURING DETENTION

Article 8

(a) All captured military personnel of the parties and captured foreign civilians of the parties shall be treated humanely at all times, and in accordance with international practice.

They shall be protected against all violence to life and person, in particular against murder in any form, mutilation, torture and cruel treatment, and outrages upon personal dignity. These persons shall not be forced to join the armed forces of the detaining party.

They shall be given adequate food, clothing, shelter, and the medical attention required for their state of health. They shall be allowed to exchange post cards and letters with their families and receive parcels.

(b) All Vietnamese civilian personnel captured and detained in South Vietnam shall be treated humanely at all times, and in accordance with international practice.

They shall be protected against all violence to life and person, in particular against murder in any form, mutilation, torture and cruel treatment, and outrages against personal dignity. The detaining parties shall not deny or delay their return for any reason, including the fact that captured persons may, on any grounds, have been prosecuted or sentenced. These persons shall not be forced to join the armed forces of the detaining party.

They shall be given adequate food, clothing, shelter, and the medical attention required for their state of health. They shall be allowed to exchange post cards and letters with their families and receive parcels.

Article 9

(a) To contribute to improving the living conditions of the captured military personnel of the parties and foreign civilians of the parties, the parties shall, within fifteen days after the cease-fire comes into effect, agree upon the designation of two or more national Red Cross societies to visit all places where captured military personnel and foreign civilians are held.

(b) To contribute to improving the living conditions of the captured and detained Vietnamese civilian personnel, the two South Vietnamese parties shall, within fifteen days after the cease-fire comes into effect, agree upon the designation of two or more national Red Cross societies to visit all places where the captured and detained Vietnamese civilian personnel are held.

WITH REGARD TO DEAD AND MISSING PERSONS

Article 10

(a) The Four-Party Joint Military Commission shall ensure joint action by the parties in implementing Article 8 (b) of the Agreement. When the Four-Party Joint Military Commission has ended its activities, a Four-Party Joint Military team shall be maintained to carry on this task.

(b) With regard to Vietnamese civilian personnel dead or missing in South Vietnam, the two South Vietnamese parties shall help each other to obtain information about missing persons, determine the location and take care of the graves of the dead, in a spirit of national reconciliation and concord, in keeping with the people's aspirations.

OTHER PROVISIONS

Article 11

(a) The Four-Party and Two-Party Joint Military Commissions will have the responsibility of determining immediately the modalities of implementing the provisions of this Protocol consistent with their respective responsibilities under Articles 16 (a) and 17 (a) of the Agreement. In case the Joint Military Commissions, when carrying out their tasks, cannot reach agreement on a matter pertaining to the return of captured personnel they shall refer to the International Commission for its assistance.

(b) The Four-Party Joint Military Commission shall form, in addition to the teams established by the Protocol concerning the cease-fire in South Vietnam and the Joint Military Commissions, a subcommission on captured persons and, as required, joint military teams on captured persons to assist the Commission in its tasks.

(c) From the time the cease-fire comes into force to the time when the Two-Party Joint Military Commission becomes operational, the two South Vietnamese parties' delegations to the Four-Party Joint Military Commission shall form a provisional subcommission and provisional joint military teams to carry out its tasks concerning captured and detained Vietnamese civilian personnel.

(d) The Four-Party Joint Military Commission shall send joint military teams to observe the return of the persons mentioned in Articles 1 and 2 of this Protocol at each place in Vietnam where such persons are being returned, and at the last detention places from which these persons will be taken to the places of return. The Two-Party Joint Military Commission shall send joint military teams to observe the return of Vietnamese civilian personnel captured and detained at each place in South Vietnam where such persons are being returned, and at the last detention places from which these persons will be taken to the places of return.

Article 12

In implementation of Articles 18 (b) and 18 (c) of the Agreement, the International Commission of Control and Supervision shall have the responsibility to control and supervise the observance of Articles 1 through 7 of this Protocol through observation of the return of captured military personnel, foreign civilians and captured and detained Vietnamese civilian personnel at each place in Vietnam where these persons are being returned, and at the last detention places from which these persons will be taken to the places of return, the examination of lists, and the investigation of violations of the provisions of the above-mentioned Articles.

Article 13

Within five days after signature of this Protocol, each party shall publish the text of the Protocol and communicate it to all the captured persons covered by the Protocol and being detained by that party.

Article 14

This Protocol shall come into force upon signature by plenipotentiary representatives of all the parties participating in the Paris Conference on Vietnam. It shall be strictly implemented by all the parties concerned.

Done in Paris this twenty-seventh day of January, One Thousand Nine Hundred and Seventy-Three, in Vietnamese and English. The Vietnamese and English texts are official and equally authentic.

(Separate Numbered Page)

For the Government of the United States of America:

WILLIAM P. ROGERS,
Secretary of State.

For the Government of the Republic of Vietnam:

TRAN VAN LAM,
Minister for Foreign Affairs.

For the Government of the Democratic Republic of Vietnam:

NGUYEN DUY TRINH,
Minister for Foreign Affairs.

For the Provisional Revolutionary Government of the Republic of South Vietnam:

NGUYEN THI BINH,
Minister for Foreign Affairs.

PROTOCOL TO THE AGREEMENT ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM CONCERNING THE RETURN OF CAPTURED MILITARY PERSONNEL AND FOREIGN CIVILIANS AND CAPTURED AND DETAINED VIETNAMESE CIVILIAN PERSONNEL

The Government of the United States of America, with the concurrence of the Government of the Republic of Vietnam,

The Government of the Democratic Republic of Vietnam, with the concurrence of the Provisional Revolutionary Government of the Republic of South Vietnam,

In implementation of Article 8 of the Agreement on Ending the War and Restoring Peace in Vietnam signed on this date providing for the return of captured military personnel and foreign civilians, and captured and detained Vietnamese civilian personnel,

Have agreed as follows:

[Text of Protocol Articles 1-13 same as above]

Article 14

The Protocol to the Paris Agreement on Ending the War and Restoring Peace in Vietnam concerning the Return of Captured Military Personnel and Foreign Civilians and Captured and Detained Vietnamese Civilian Personnel shall enter into force upon signature of this document by the Secretary of State of the Government of the United States of America and the Minister for Foreign Affairs of the Government of the Democratic Republic of Vietnam, and upon signature of a document in the same terms by the Secretary of State of the Government of the United States of America, the Minister for Foreign Affairs of the Government of the Republic of Vietnam, the Minister for Foreign Affairs of the Government of the Democratic Republic of Vietnam, and the Minister for Foreign Affairs of the Provisional Revolutionary Government of the Republic of South Vietnam.

The Protocol shall be strictly implemented by all the parties concerned. Done in Paris this twenty-seventh day of January, One Thousand Nine Hundred and Seventy-Three, in Vietnamese and English. The Vietnamese and English texts are official and equally authentic.

For the Government of the United States of America:

WILLIAM P. ROGERS,
Secretary of State.

For the Government of the Democratic Republic of Vietnam:

TRAN VAN LAM,
Minister for Foreign Affairs.

Protocol on the International Commission of Control and Supervision

(White House press release dated January 24)

PROTOCOL TO THE AGREEMENT ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM CONCERNING THE INTERNATIONAL COMMISSION OF CONTROL AND SUPERVISION

The parties participating in the Paris Conference on Vietnam, in implementation of Article 18 of the Agreement signed on this date providing for the formulation of the International Commission of Control and Supervision,

Have agreed as follows:

Article 1

The implementation of the Agreement is the responsibility of the parties signatory to the Agreement.

The functions of the International Commission are to control and supervise the implementation of the provisions mentioned in Article 18 of the Agreement. In carrying out these functions, the International Commission shall:

(a) Follow the implementation of the above-mentioned provisions of the Agreement through communication with the parties and on-the-spot observation at the places where this is required;

(c) When necessary, cooperate with the Joint Military Commissions in determining and detecting violations of the above-mentioned provisions.

Article 2

The International Commission shall investigate violations of the provisions described on Article 18 of the Agreement on the request of the Four-Party Joint Military Commission, or of the Two-Party Joint Military Commission, or of any party, or, with respect to Article 9(b) of the Agreement on general elections, of the National Council on National Reconciliation and Concord, or in any case where the International Commission has other adequate grounds for considering that there has been a violation of those provisions. It is understood that, in carrying out this task, the International Commission shall function with the concerned parties' assistance and cooperation as required.

Article 3

(a) When the International Commission finds that there is a serious violation in the implementation of the Agreement or a threat to peace against which the Commission can find no appropriate measure, the Commission shall report this to the four parties to the Agreement so that they can hold consultations to find a solution.

(b) In accordance with Article 18 (f) of the Agreement, the International Commission's reports shall be made with the unanimous agreement of the representatives of all the four members. In case no unanimity is reached, the Commission shall forward the different views to the four parties in accordance with Article 18 (h) of the Agreement, or to the two South Vietnamese parties in accordance with Article 18 (c) of the Agreement, but these shall not be considered as reports of the Commission.

Article 4

(a) The headquarters of the International Commission shall be at Saigon.

(b) There shall be seven regional teams located in the regions shown on the annexed map* and based at the following places:
Region I, Hue; Region II, Danang; Region III, Pleiku; Region IV, Phan Thiet;
Region V, Bien Hoa; Region VI, My Tho; and Region VII, Can Tho.
The International Commission shall designate three teams for the region of Saigon-Gia Dinh.

*See map on p. 530.

(c) There shall be twenty-six teams operating in the areas shown on the annexed map and based at the following places in South Vietnam:

Region I, Quang Tri, Phu Bai.

Region II, Binh Dinh, Tam Ky, Cho Lai.

Region III, Kontum, Hau Bon, Phu Cat, Tuy An, Ninh Hoa, Ban Me Thuot.

Region IV, Da Lat, Bao Loc, Phan Rang.

Region V, An Loc, Xuan Loc, Ben Cat, Cu Chi, Tan An.

Region VI, Moc Hoa, Giong Trom.

Region VII, Tri Ton, Vinh Long, Vi Thanh, Khanh Hung, Quan Long.

(d) There shall be twelve teams located as shown on the annexed map and based at the following places: Gio Linh (to cover the area south of the Provisional Military Demarcation Line), Lao Bao, Ben Het, Duc Co, Chu Lai, Qui Nhon, Nha Trang, Vung Tau, Xa Mat, Bien Hoa Airfield, Hong Ngu, and Can Tho.

(e) There shall be seven teams, six of which shall be available for assignment to the points of entry which are not listed in paragraph (d) above and which the two South Vietnamese parties choose as points for legitimate entry to South Vietnam for replacement of armaments, munitions, and war material permitted by Article 7 of the Agreement. Any team or teams not needed for the above-mentioned assignment shall be available for other tasks, in keeping with the Commission's responsibility for control and supervision.

(f) There shall be seven teams to control and supervise the return of captured and detained personnel of the parties.

Article 5

(a) To carry out its tasks concerning the return of the captured military personnel and foreign civilians of the parties as stipulated by Article 8(a) of the Agreement, the International Commission shall, during the time of such return, send one control and supervision team to each place in Vietnam where the captured persons are being returned, and to the last detention places from which these persons will be taken to the places of return.

(b) To carry out its tasks concerning the return of the Vietnamese civilian personnel captured and detained in South Vietnam mentioned in Article 8 (c) of the Agreement, the International Commission shall, during the time of such return, send one control and supervision team to each place in South Vietnam where the above-mentioned captured and detained persons are being returned, and to the last detention places from which these persons shall be taken to the places of return.

Article 6

To carry out its tasks regarding Article 9 (b) of the Agreement on the free and democratic general elections in South Vietnam, the International Commission shall organize additional teams, when necessary. The International Commission shall discuss this question in advance with the National Council of National Reconciliation and Concord. If additional teams are necessary for this purpose, they shall be formed thirty days before the general elections.

Article 7

The International Commission shall continually keep under review its size, and shall reduce the number of its teams, its representatives or other personnel, or both, when those teams, representatives or personnel have accomplished the tasks assigned to them and are not required for other tasks. At the same time, the expenditures of the International Commission shall be reduced correspondingly.

Article 8

Each member of the International Commission shall make available at all times the following numbers of qualified personnel:

(a) One senior representative and twenty-six others for the headquarters staff.

(b) Five for each of the seven regional teams.

(c) Two for each of the other international control teams, except for the teams at Gio Linh and Vung Tau, each of which shall have three.

(d) One hundred sixteen for the purpose of providing support to the Commission Headquarters and its teams.

Article 9

(a) The International Commission, and each of its teams, shall act as a single body comprising representatives of all four members.

(b) Each member has the responsibility to ensure the presence of its representatives at all levels of the International Commission. In case a representative is absent, the member concerned shall immediately designate a replacement.

Article 10

(a) The parties shall afford full cooperation, assistance, and protection to the International Commission.

(b) The parties shall at all times maintain regular and continuous liaison with the International Commission. During the existence of the Four-Party Joint Military Commission, the delegations of the parties to that Commission shall also perform liaison functions with the International Commission. After the Four-Party Joint Military Commission has ended its activities, such liaison shall be maintained through the Two-Party Joint Military Commission, liaison missions, or other adequate means.

(c) The International Commission and the Joint Military Commissions shall closely cooperate with and assist each other in carrying out their respective functions.

(d) Whenever a team is stationed or operating, the concerned party shall designate a liaison officer to the team to cooperate with and assist it in carrying out without hindrance its task of control and supervision. When a team is carrying out an investigation, a liaison officer from each concerned party shall have the opportunity to accompany it, provided the investigation is not thereby delayed.

(e) Each party shall give the International Commission reasonable advance notice of all proposed actions concerning those provisions of the Agreement that are to be controlled and supervised by the International Commission.

(f) The International Commission, including its teams, is allowed such movement for observation as is reasonably required for the proper exercise of its functions as stipulated in the Agreement. In carrying out these functions, the International Commission, including its teams, shall enjoy all necessary assistance and cooperation from the parties concerned.

Article 11

In supervising the holding of the free and democratic general elections described in Articles 9 (b) and 12 (b) of the Agreement in accordance with modalities to be agreed upon between the National Council of National Reconciliation and Concord and the International Commission, the latter shall receive full cooperation and assistance from the National Council.

Article 12

The International Commission and its personnel who have the nationality of a member state shall, while carrying out their tasks, enjoy privileges and immunities equivalent to those accorded diplomatic missions and diplomatic agents.

Article 13

The International Commission may use the means of communication and transport necessary to perform its functions. Each South Vietnamese party shall make available for rent to the International Commission appropriate office and accommodation facilities and shall assist it in obtaining such facilities. The International Commission may receive from the parties, on mutually agreeable terms, the necessary means of communication and transport and may purchase from any source necessary equipment and services not obtained from the parties. The International Commission shall possess these means.

Article 14

The expenses for the activities of the International Commission shall be borne by the parties and the members of the International Commission in accordance with the provisions of this Article:

(a) Each member country of the International Commission shall pay the salaries and allowances of its personnel.

(b) All other expenses incurred by the International Commission shall be met from a fund to which each of the four parties shall contribute twenty-three percent (23%) and to which each member of the International Commission shall contribute two percent (2%).

(c) Within thirty days of the date of entry into force of this Protocol, each of the four parties shall provide the International Commission with an initial sum equivalent to four million, five hundred thousand (4,500,000) French francs in convertible currency, which sum shall be credited against the amounts due from that party under the first budget.

(d) The International Commission shall prepare its own budgets. After the International Commission approves a budget, it shall transmit it to all parties signatory to the Agreement for their approval. Only after the budgets have been approved by the four parties to the Agreement shall they be obliged to make their contributions. However, in case the parties to the Agreement do not agree on a new budget, the International Commission shall temporarily base its expenditures on the previous budget, except for the extraordinary, one-time expenditures for installation or for the acquisition of equipment, and the parties shall continue to make their contributions on that basis until a new budget is approved.

Article 15

(a) The headquarters shall be operational and in place within twenty-four hours after the cease-fire.

(b) The regional teams shall be operational and in place, and three teams for supervision and control of the return of the captured and detained personnel shall be operational and ready for dispatch within forty-eight hours after the cease-fire.

(c) Other teams shall be operational and in place within fifteen to thirty days after the cease-fire.

Article 16

Meetings shall be convened at the call of the Chairman. The International Commission shall adopt other working procedures appropriate for the effective discharge of its functions and consistent with respect for the sovereignty of South Vietnam.

Article 17

The Members of the International Commission may accept the obligations of this Protocol by sending notes of acceptance to the four parties signatory to the Agreement. Should a member of the International Commission decide to withdraw from the International Commission, it may do so by giving three months notice by means of notes to the four parties to the Agreement, in which case those four parties shall consult among themselves for the purpose of agreeing upon a replacement member.

Article 18

This Protocol shall enter into force upon signature by plenipotentiary representatives of all the parties participating in the Paris Conference on Vietnam. It shall be strictly implemented by all the parties concerned.

Done in Paris this twenty-seventh day of January, One Thousand Nine Hundred and Seventy-Three, in Vietnamese and English. The Vietnamese and English texts are official and equally authentic.

(Separate Numbered Page)

For the Government of the United States of America:

WILLIAM P. ROGERS,
Secretary of State.

For the Government of the Republic of Vietnam:

TRAN VAN LAM,
Minister for Foreign Affairs.

(Separate Numbered Page)

For the Government of the Democratic Republic of Vietnam:

NGUYEN DUY TRINH,
Minister for Foreign Affairs.

For the Provisional Revolutionary Government of the Republic of South Vietnam:

NGUYEN THI BINH,
Minister for Foreign Affairs.

PROTOCOL TO THE AGREEMENT ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM CONCERNING THE INTERNATIONAL COMMISSION OF CONTROL AND SUPERVISION

The Government of the United States of America, with the concurrence of the Government of the Republic of Vietnam,

The Government of the Democratic Republic of Vietnam, with the concurrence of the Provisional Revolutionary Government of the Republic of South Vietnam,

In implementation of Article 18 of the Agreement on Ending the War and Restoring Peace in Vietnam signed on this date providing for the formation of the International Commission of Control and Supervision,

Have agreed as follows:

(Text of Protocol Articles 1-17 same as above)

Article 18

The Protocol to the Paris Agreement on Ending the War and Restoring Peace in Vietnam concerning the International Commission of Control and Supervision shall enter into force upon signature of this document by the Secretary of State of the Government of the United States of America and the Minister for Foreign Affairs of the Government of the Democratic Republic of Vietnam, and upon signature of a document in the same terms by the Secretary of State of the Government of the United States of America, the Minister for Foreign Affairs of the Government of the Republic of Vietnam, the Minister for Foreign Affairs of the Government of the Democratic Republic of Vietnam, and the Minister for Foreign Affairs of the Provisional Revolutionary Government of the Republic of South Vietnam. The Protocol shall be strictly implemented by all the parties concerned.

Done in Paris this twenty-seventh day of January, One Thousand Nine Hundred and Seventy-Three, in Vietnamese and English. The Vietnamese and English texts are official and equally authentic.

For the Government of the United States of America:

WILLIAM P. ROGERS,
Secretary of State.

For the Government of the Democratic Republic of Vietnam:

NGUYEN DUU TRINH,
Minister for Foreign Affairs.

Protocol on the Cease-Fire in South Viet-Nam and the Joint Military Commissions

(White House press release dated January 24)

PROTOCOL TO THE AGREEMENT ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM CONCERNING THE CEASE-FIRE IN SOUTH VIETNAM AND THE JOINT MILITARY COMMISSIONS

The parties participating in the Paris Conference on Vietnam.

In implementation of the first paragraph of Article 2, Article 3, Article 5, Article 6, Article 16 and Article 17 of the Agreement on Ending the War and Restoring Peace in Vietnam signed on this date which provide for the cease-fire in South Vietnam and the establishment of a Four-Party Joint Military Commission and a Two-Party Joint Military Commission.

Have agreed as follows:

CEASE-FIRE IN SOUTH VIETNAM

Article 1

The High Commands of the parties in South Vietnam shall issue prompt and timely orders to all regular and irregular armed forces and the armed police under their command to completely end hostilities throughout South Vietnam, at the exact time stipulated in Article 2 of the Agreement and ensure that these armed forces and armed police comply with these orders and respect the cease-fire.

Article 2

(a) As soon as the cease-fire comes into force and until regulations are issued by the Joint Military Commissions, all ground, river, sea and air combat forces of the parties in South Vietnam shall remain in place; that is, in order to ensure a stable cease-fire, there shall be no major redeployments or movements that would extend each party's area of control or would result in contact between opposing armed forces and clashes which might take place.

(b) All regular and irregular armed forces and the armed police of the parties in South Vietnam shall observe the prohibition of the following acts:

(1) Armed patrols into areas controlled by opposing armed forces and flights by bomber and fighter aircraft of all types, except for unarmed flights for proficiency training and maintenance;

(2) Armed attacks against any person, either military or civilian, by any means whatsoever, including the use of small arms, mortars, artillery, bombing and strafing by airplanes and any other type of weapon or explosive device;

(3) All combat operations on the ground, on rivers, on the sea and in the air;

(4) All hostile acts, terrorism or reprisals; and

(5) All acts endangering lives or public or private property.

Article 3

(a) The above-mentioned prohibitions shall not hamper or restrict:

(1) Civilian supply, freedom of movement, freedom to work, and freedom of the people to engage in trade, and civilian communication and transportation between and among all areas in South Vietnam;

(2) The use by each party in areas under its control of military support elements, such as engineer and transportation units, in repair and construction of public facilities and the transportation and supplying of the population;

(3) Normal military proficiency training conducted by the parties in the areas under their respective control with due regard for public safety.

(b) The Joint Military Commissions shall immediately agree on corridors, routes, and other regulations governing the movement of military transport aircraft, military transport vehicles, and military transport vessels of all types of one party going through areas under the control of other parties.

Article 4

In order to avert conflict and ensure normal conditions for those armed forces which are in direct contact, and pending regulation by the Joint Military Commissions, the commanders of the opposing armed forces at those places of direct contact shall meet as soon as the cease-fire comes into force with a view to reaching an agreement on temporary measures to avert conflict and to ensure supply and medical care for these armed forces.

Article 5

(a) Within fifteen days after the cease-fire comes into effect, each party shall do its utmost to complete the removal or deactivation of all demolition objects, mine-fields, traps, obstacles or other dangerous objects placed previously, so as not to hamper the population's movement and work, in the first place on waterways, roads and railroads in South Vietnam. Those mines which cannot be removed or deactivated within that time shall be clearly marked and must be removed or deactivated as soon as possible.

(b) Emplacement of mines is prohibited, except as a defensive measure around the edges of military installations in places where they do not hamper the population's movement and work, and movement on waterways, roads and railroads. Mines and other obstacles already in place at the edges of military installations may remain in place if they are in places where they do not hamper the population's movement and work, and movement on waterways, roads and railroads.

Article 6

Civilian police and civilian security personnel of the parties in South Vietnam, who are responsible for the maintenance of law and order, shall strictly respect the prohibitions set forth in Article 2 of this Protocol. As required by their responsibilities, normally they shall be authorized to carry pistols, but when required by unusual circumstances, they shall be allowed to carry other small individual arms.

Article 7

(a) The entry into South Vietnam of replacement armaments, munitions, and war material permitted under Article 7 of the Agreement shall take place under the supervision and control of the Two-Party Joint Military Commission and of the International Commission of Control and Supervision and through such points of entry only as are designated by the two South Vietnamese parties. The two South Vietnamese parties shall agree on these points of entry within fifteen days after the entry into force of the cease-fire. The two South Vietnamese parties may select as many as six points of entry which are not included in the list of places where teams of the International Commission of Control and Supervision are to be based contained in Article 4(d) of the Protocol concerning the International Commission. At the same time, the two South Vietnamese parties may also select points of entry from the list of places set forth in Article 4(d) of that Protocol.

(b) Each of the designated points of entry shall be available only for that South Vietnamese party which is in control of that point. The two South Vietnamese parties shall have an equal number of points of entry.

Article 8

(a) In implementation of Article 5 of the Agreement, the United States and the other foreign countries referred to in Article 5 of the Agreement shall take with them all their armaments, munitions, and war material. Transfers of such items which would leave them in South Vietnam shall not be made subsequent to the entry into force of the Agreement except for transfers of communications, transport, and other non-combat material to the Four-Party Joint Military Commission or the International Commission of Control and Supervision.

(b) Within five days after the entry into force of the cease-fire, the United States shall inform the Four-Party Joint Military Commission and the International Commission of Control and Supervision of the general plans for timing of complete troop withdrawals which shall take place in four phases of fifteen days each. It is anticipated that the numbers of troops withdrawn in each phase are not likely to be widely different, although it is not feasible to ensure equal numbers. The approximate numbers to be withdrawn in each phase shall be given to the Four-Party Joint Military Commission and the International Commission of Control and Supervision sufficiently in advance of actual withdrawals so that they can properly carry out their tasks in relation thereto.

Article 9

(a) In implementation of Article 8 of the Agreement, the United States and the other foreign countries referred to in that Article shall dismantle and remove from South Vietnam or destroy all military bases in South Vietnam of the United States and of the other foreign countries referred to in that Article, including weapons, mines, and other military equipment at these bases, for the purpose of making them unusable for military purposes.

(b) The United States shall supply the Four-Party Joint Military Commission and the International Commission of Control and Supervision with necessary information on plans for base dismantlement so that those Commissions can properly carry out their tasks in relation thereto.

THE JOINT MILITARY COMMISSIONS

Article 10

(a) The implementation of the Agreement is the responsibility of the parties signatory to the Agreement.

The Four-Party Joint Military Commission has the task of ensuring joint action by the parties in implementing the Agreement by serving as a channel of communication among the parties, by drawing up plans and fixing the modalities to carry out, coordinate, follow and inspect the implementation of the provisions mentioned in Article 16 of the Agreement, and by negotiating and settling all matters concerning the implementation of those provisions.

(b) The concrete tasks of the Four-Party Joint Military Commission are:

- (1) To coordinate, follow and inspect the implementation of the above-mentioned provisions of the Agreement by the four parties;
- (2) to deter and detect violations, to deal with cases of violation, and to settle conflicts and matters of contention between the parties relating to the above-mentioned provisions;
- (3) To dispatch without delay one or more joint teams, as required by specific cases, to any part of South Vietnam, to investigate alleged violations of the Agreement and to assist the parties in finding measures to prevent recurrence of similar cases;
- (4) To engage in observation at the places where this is necessary in the exercise of its functions;
- (5) To perform such additional tasks as it may, by unanimous decision, determine.

Article 11

(a) There shall be a Central Joint Military Commission located in Saigon. Each party shall designate immediately a military delegation of fifty-nine persons to represent it on the Central Commission. The senior officer designated by each party shall be a general officer, or equivalent.

(b) There shall be seven Regional Joint Military Commissions located in the regions shown on the annexed map and based at the following places:

Regions:	Places	Regions:	Places
I.....	Hue	V.....	Bien Hoa
II.....	Danang	VI.....	My Tho
III.....	Pleiku	VII.....	Can Tho
IV.....	Phan Thiet		

Each party shall designate a military delegation of sixteen persons to represent it on each Regional Commission. The senior officer designated by each party shall be an officer from the rank of Lieutenant Colonel to Colonel or equivalent.

(c) There shall be a joint military team operating in each of the areas shown on the annexed map and based at each of the following places in South Vietnam:

Region I	Phan Rang
Quang Tri	Region V
Phu Bai	An Loc
Region II	Xuan Loc
Hoi An	Ben Cat
Tam Ky	Cu Chi
Chu Lai	Tan An
Region III	Region VI
Kontum	Moc Hoa
Hau Bon	Giong Trom
Phu Cat	Region VII
Tuy An	Tri Ton
Ninh Hoa	Vinh Long
Ban Me Thuot	Vi Thanh
Region IV	Khanh Hung
Da Lat	Quan Long
Bao Loc	

Each party shall provide four qualified persons for each joint military team. The senior person designated by each party shall be an officer from the rank of Major to Lieutenant Colonel, or equivalent.

(d) The Regional Joint Military Commissions shall assist the Central Joint Military Commission in performing its tasks and shall supervise the operations of the joint military teams. The region of Saigon-Gia Dinh is placed under the responsibility of the Central Commission which shall designate joint military teams to operate in this region.

(e) Each party shall be authorized to provide support and guard personnel for its delegations to the Central Joint Military Commission and Regional Joint Military Commissions, and for its members of the joint military teams. The total number of support and guard personnel for each party shall not exceed five hundred and fifty.

(f) The Central Joint Military Commission may establish such joint sub-commissions, joint staffs and joint military teams as circumstances may require. The Central Commission shall determine the numbers of personnel required for any additional sub-commissions, staffs or teams it establishes, provided that each party shall designate one-fourth of the number of personnel required and that the total number of personnel for the Four-Party Joint Military Commission, to include its staffs, teams, and support personnel, shall not exceed three thousand three hundred.

(g) The delegations of the two South Vietnamese parties may, by agreement, establish provisional sub-commissions and joint military teams to carry out the tasks specifically assigned to them by Article 17 of the Agreement. With respect to Article 7 of the Agreement, the two South Vietnamese parties' delegations to the Four-Party Joint Military Commission shall establish joint military teams at the points of entry into South Vietnam used for replacement of armaments, munitions and war material which are designated in accordance with Article 7 of this Protocol. From the time the cease-fire comes into force to the time when the Two-Party Joint Military Commission becomes operational, the two South Vietnamese parties' delegations to the Four-Party Joint Military Commission shall form a provisional sub-commission and provisional joint military teams to carry out its tasks concerning captured and detained Vietnamese civilian personnel. Where necessary for the above purposes, the two South Vietnamese parties may agree to assign personnel additional to those assigned to the two South Vietnamese delegations to the Four-Party Joint Military Commission.

Article 12

(a) In accordance with Article 17 of the Agreement which stipulates that the two South Vietnamese parties shall immediately designate their respective representatives to form the Two-Party Joint Military Commission, twenty-four hours after the cease-fire comes into force, the two designated South Vietnamese parties' delegations to the Two-Party Joint Military Commission shall meet in Saigon so as to reach an agreement as soon as possible on organization and operation of the Two-Party Joint Military Commission, as well as the measures and organization aimed at enforcing the cease-fire and preserving peace in South Vietnam.

(b) From the time the cease-fire comes into force to the time when the Two-Party Joint Military Commission becomes operational, the two South Vietnamese parties' delegations to the Four-Party Joint Military Commission at all levels shall simultaneously assume the tasks of the Two-Party Joint Military Commission at all levels, in addition to their functions as delegations to the Four-Party Joint Military Commission.

(c) If, at the time the Four-Party Joint Military Commission ceases its operation in accordance with Article 16 of the Agreement, agreement has not been reached on organization of the Two-Party Joint Military Commission, the delegations of the two South Vietnamese parties serving with the Four-Party Joint Military Commission at all levels shall continue temporarily to work together as a provisional two-party joint military commission and to assume the tasks of the Two-Party Joint Military Commission at all levels until the Two-Party Joint Military Commission becomes operational.

Article 13

In application of the principle of unanimity, the Joint Military Commissions shall have no chairman, and meetings shall be convened at the request of any representative. The Joint Military Commissions shall adopt working procedures appropriate for the effective discharge of their functions and responsibilities.

Article 14

The Joint Military Commissions and the International Commission of Control and Supervision shall closely cooperate with and assist each other in carrying out their respective functions. Each Joint Military Commission shall inform the International Commission about the implementation of those provisions of the Agreement for which that Joint Military Commission has responsibility and which are within the competence of the International Commission. Each Joint Military Commission may request the International Commission to carry out specific observation activities.

Article 15

The Central Four-Party Joint Military Commission shall begin operating twenty-four hours after the cease-fire comes into force. The Regional Four-Party Joint Military Commissions shall begin operating forty-eight hours after the cease-fire comes into force. The Joint military teams based at the places listed in Article 11 (c) of this Protocol shall begin operating no later than fifteen days after the cease-fire comes into force. The delegations of the two South Vietnamese parties shall simultaneously begin to assume the tasks of the Two-Party Joint Military Commission as provided in Article 12 of this Protocol.

Article 16

(a) The parties shall provide full protection and all necessary assistance and cooperation to the Joint Military Commissions at all levels, in the discharge of their tasks.

(b) The Joint Military Commissions and their personnel, while carrying out their tasks, shall enjoy privileges and immunities equivalent to those accorded diplomatic missions and diplomatic agents.

(c) The personnel of the Joint Military Commissions may carry pistols and wear special insignia decided upon by each Central Joint Military Commission. The personnel of each party while guarding Commission installations or equipment may be authorized to carry other individual small arms, as determined by each Central Joint Military Commission.

Article 17

(a) The delegation of each party to the Four-Party Joint Military Commission and the Two-Party Joint Military Commission shall have its own offices, communications, logistics and transportation means, including aircraft when necessary.

(b) Each party, in its areas of control shall provide appropriate office and accommodation facilities to the Four-Party Joint Military Commission and the Two-Party Joint Military Commission at all levels.

(c) The parties shall endeavor to provide to the Four-Party Joint Military Commission and the Two-Party Joint Military Commission, by means of loan, lease, or gift, the common means of operation, including equipment for communication, supply, and transport, including aircraft when necessary. The Joint Military Commissions may purchase from any source necessary facilities, equipment, and services which are not supplied by the parties. The Joint Military Commissions shall possess and use these facilities and this equipment.

(d) The facilities and the equipment for common use mentioned above shall be returned to the parties when the Joint Military Commissions have ended their activities.

Article 18

The common expenses of the Four-Party Joint Military Commission shall be borne equally by the four parties, and the common expenses of the Two-Party Joint Military Commission in South Vietnam shall be borne equally by these two parties.

Article 19

This Protocol shall enter into force upon signature by plenipotentiary representatives of all the parties participating in the Paris Conference on Vietnam. It shall be strictly implemented by all the parties concerned.

Done in Paris this twenty-seventh day of January, One Thousand Nine Hundred and Seventy-Three, in Vietnamese and English. The Vietnamese and English texts are official and equally authentic.

(Separate Numbered Page)

For the Government of the United States of America:

WILLIAM P. ROGERS,
Secretary of State.

For the Government of the Republic of Vietnam:

THAN VAN LAM,
Minister for Foreign Affairs.

(Separate Numbered Page)

For the Government of the Democratic Republic of Vietnam:

NGUYEN DUY TRINH,
Minister for Foreign Affairs.

For the Provisional Revolutionary Government of the Republic of South Vietnam:

NGUYEN THI BINH,
Minister for Foreign Affairs.

PROTOCOL TO THE AGREEMENT ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM CONCERNING THE CEASE-FIRE IN SOUTH VIETNAM AND THE JOINT MILITARY COMMISSIONS

The Government of the United States of America, with the concurrence of the Government of the Republic of Vietnam,

The Government of the Democratic Republic of Vietnam, with the concurrence of the Provisional Revolutionary Government of the Republic of South Vietnam,

In implementation of the first paragraph of Article 2, Article 3, Article 5, Article 6, Article 10 and Article 17 of the Agreement on Ending the War and Restoring Peace in Vietnam signed on this date which provide for the cease-fire in South Vietnam and the establishment of a Four-Party Joint Military Commission and a Two-Party Joint Military Commission,

Have agreed as follows:

(Text of Protocol Articles 1-18 same as above)

Article 19

The Protocol to the Paris Agreement on Ending the War and Restoring Peace in Vietnam concerning the Cease-fire in South Vietnam and the Joint Military Commissions shall enter into force upon signature of this document by the Secretary of State of the Government of the United States of America and the Minister for Foreign Affairs of the Government of the Democratic Republic of Vietnam, and upon signature of a document in the same terms by the Secretary of State of the Government of the United States of America, the Minister for Foreign Affairs of the Government of the Republic of Vietnam, the Minister for Foreign Affairs of the Government of the Democratic Republic of Vietnam, and the Minister for Foreign Affairs of the Provisional Revolutionary Government of the Republic of South Vietnam. The Protocol shall be strictly implemented by all the parties concerned.

Done in Paris this twenty-seventh day of January, One Thousand Nine Hundred and Seventy-Three, in Vietnamese and English. The Vietnamese and English texts are official and equally authentic.

For the Government of the United States of America:

WILLIAM P. ROGERS,
Secretary of State.

For the Government of the Republic of Vietnam:

NGUYEN DUY TRINH,
Minister for Foreign Affairs.

Protocol on Mine Clearing in North Vietnam

(White House press release dated January 24)

PROTOCOL TO THE AGREEMENT ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM CONCERNING THE REMOVAL, PERMANENT DEACTIVATION, OR DESTRUCTION OF MINES IN THE TERRITORIAL WATERS, PORTS, HARBORS, AND WATERWAYS OF THE DEMOCRATIC REPUBLIC OF VIETNAM

The Government of the United States of America,

The Government of the Democratic Republic of Vietnam,

In implementation of the second paragraph of Article 2 of the Agreement on Ending the War and Restoring Peace in Vietnam signed on this date,

Have agreed as follows:

Article 1

The United States shall clear all the mines it has placed in the territorial waters, ports, harbors, and waterways of the Democratic Republic of Vietnam. This mine clearing operation shall be accomplished by rendering the mines harmless through removal, permanent deactivation, or destruction.

Article 2

With a view to ensuring lasting safety for the movement of people and watercraft and the protection of important installations, mines shall, on the request of the Democratic Republic of Vietnam, be removed or destroyed in the indicated areas; and whenever their removal or destruction is impossible, mines shall be permanently deactivated and their emplacement clearly marked.

Article 3

The mine clearing operation shall begin at twenty-four hundred (2400) hours (GMT) on January 27, 1973. The representatives of the two parties shall consult immediately on relevant factors and agree upon the earliest possible target date for the completion of the work.

Article 4

The mine clearing operation shall be conducted in accordance with priorities and timing agreed upon by the two parties. For this purpose, representatives of the two parties shall meet at an early date to reach agreement on a program and a plan of implementation. To this end:

(a) The United States shall provide its plan for mine clearing operations, including maps of the minefields and information concerning the types, numbers and properties of the mines;

(b) The Democratic Republic of Vietnam shall provide all available maps and hydrographic charts and indicate the mined places and all other potential hazards to the mine clearing operations that the Democratic Republic of Vietnam is aware of;

(c) The two parties shall agree on the timing of implementation of each segment of the plan and provide timely notice to the public at least forty-eight hours in advance of the beginning of mine clearing operations for that segment.

Article 5

The United States shall be responsible for the mine clearance on inland waterways of the Democratic Republic of Vietnam. The Democratic Republic of Vietnam shall, to the full extent of its capabilities, actively participate in the mine clearance with the means of surveying, removal and destruction and technical advice supplied by the United States.

Article 6

With a view to ensuring the safe movement of people and watercraft on waterways and at sea, the United States shall in the mine clearing process supply timely information about the progress of mine clearing in each area, and about the remaining mines to be destroyed. The United States shall issue a communique when the operations have been concluded.

Article 7

In conducting mine clearing operations, the U.S. personnel engaged in these operations shall respect the sovereignty of the Democratic Republic of Vietnam and shall engage in no activities inconsistent with the Agreement on Ending the War and Restoring Peace in Vietnam and this Protocol. The U.S. personnel engaged in the mine clearing operations shall be immune from the jurisdiction of the Democratic Republic of Vietnam for the duration of the mine clearing operations.

The Democratic Republic of Vietnam shall ensure the safety of the U.S. personnel for the duration of their mine clearing activities on the territory of the Democratic Republic of Vietnam, and shall provide this personnel with all possible assistance and the means needed in the Democratic Republic of Vietnam that have been agreed upon by the two parties.

Article 8

This Protocol to the Paris Agreement on Ending the War and Restoring Peace in Vietnam shall enter into force upon signature by the Secretary of State of the Government of the United States of America and the Minister for Foreign Affairs of the Government of the Democratic Republic of Vietnam. It shall be strictly implemented by the two parties.

Done in Paris this twenty-seventh day of January, One Thousand Nine Hundred and Seventy-Three, in Vietnamese and English. The Vietnamese and English texts are official and equally authentic.

For the Government of the United States of America:

WILLIAM P. ROGERS,
Secretary of State.

For the Government of the Democratic Republic of Vietnam:

NGUYEN DUY TRINH,
Minister for Foreign Affairs.

Sep 25.92 16:22 No.007 P.04



INTERNATIONAL
SECURITY AFFAIRS

THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301-2400

In reply refer to:
I-92/43943

25 SEP 1992

Honorable John F. Kerry
Chairman
Select Committee on POW/MIA Affairs
United States Senate
Washington, D.C. 20515-6500

Dear Mr. Chairman:

I am pleased to respond to your 21 September 1992 request for information on captured U.S. personnel in Indochina who were verified in captivity by written letters but did not return at Operation Homecoming. Analysis by Joint Task Force Full Accounting, the Defense Intelligence Agency and the Joint Services Sere Agency indicates that the following individual cases fit the circumstances of your question.

Dennis W. Hammond, USMC, captured on 8 February 1968 wrote a letter that was never mailed by his captors that positively identified him as captured by enemy forces. A 1968 Vietnamese radio broadcast indicated that Hammond had made a statement about U.S. involvement in Vietnam. He subsequently died in captivity, and his death and burial was verified by a fellow U.S. prisoner who returned to U.S. control. Hammond's remains were not returned and he is one of the 2,266 Americans unaccounted for. Another U.S. serviceman captured in the same incident, Joseph S. Zawtockl Jr. also died in captivity, but his remains were later repatriated, identified, and returned to the next of kin for burial.

A letter written by PFC Donald L. Sparks, U.S. Army captured on 17 June 1969 was found on the body of a dead enemy soldier nearly a year after PFC Sparks' capture. PFC Sparks remains unaccounted for and is one of the 135 discrepancy cases receiving investigative priority.

Captain Robert Young, USA was captured on 2 May 1970. A statement dated in 1970 purported to have been made by Young was found among captured enemy documents. A 1971 FBIS report indicates that Vietnamese radio broadcasted a statement from Young and other U.S. captives. Young's name appeared on the Provisional Revolutionary Government's (PRG) died in captivity list, however, his remains have not been returned.

Mr. Daniel Niehouse, a U.S. civilian, was taken captive on 25 November 1966. A letter written by Niehouse to his family in

Scotland was carried out by a fellow prisoner released in 1967. Mr. Niehouse appeared on the PRG died in captivity list, however, his remains have not been returned.

W4 John W. Frederick, USMC, was captured in December of 1965. W4 Frederick wrote letters to and received letters from his family while in captivity. Frederick died while in captivity and his remains were returned to the U.S. by the Vietnamese in March of 1974.

I hope this letter proves helpful. If additional information is forthcoming we will provide it as soon as possible.

Sincerely,

James R. Lilley
James R. Lilley

cc: Senator Kerry

SEP 25 1992 10:21 NO. 007 P. 02



INTERNATIONAL
SECURITY AFFAIRS

THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301-2400

In reply refer to:
I-92/43943

25 SEP 1992

Honorable Robert C. Smith
Vice Chairman
Select Committee on POW/MIA Affairs
United States Senate
Washington, D.C. 20515-6500.

Dear Mr. Vice Chairman:

I am pleased to respond to your 21 September 1992 request for information on captured U.S. personnel in Indochina who were verified in captivity by written letters but did not return at Operation Homecoming. Analysis by Joint Task Force Full Accounting, the Defense Intelligence Agency and the Joint Services Score Agency indicates that the following individual cases fit the circumstances of your question.

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I hope this letter proves helpful. If additional information is forthcoming we will provide it as soon as possible.

Sincerely,

James R. Lilley
James R. Lilley

cc: Senator Smith



OFFICE OF THE SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

February 2, 1973

MEMORANDUM FOR SENATORS AND MEMBERS OF THE HOUSE
OF REPRESENTATIVES

I have prepared the attached information to insure that you are informed concerning the very important and serious problem of accounting for our servicemen who are missing in action in Southeast Asia.

I want to assure you personally that we in the Department of Defense will meticulously explore all avenues and exhaust all clues in our quest to account for each individual lost in Southeast Asia. Also, I want to reaffirm that we consider each of our missing equally as important as our prisoners who are returning.

Your interest and support in our endeavor is appreciated.

Sincerely,

R. E. Shields
Roger E. Shields
Assistant for PW/MIA
Matters



OFFICE OF THE SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

February 2, 1973

ACCOUNTING FOR MILITARY PERSONNEL WHO ARE LISTED AS MISSING IN ACTION

The purpose of this memorandum is to provide a description of the efforts being made to acquire as full an accounting of our missing in action personnel as possible.

The United States Government will make every possible effort to acquire an accounting for our servicemen missing in action in Southeast Asia.

In this regard, the Agreement which was signed in Paris on January 27, 1973, provides in Article 8 that:

"... (b) The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action; to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action."

In addition, the Protocol to the Agreement "Concerning the Return of Captured Military Personnel and Foreign Civilians and Captured and Detained Vietnamese Civilian Personnel" states in Article 10, "With Regard to Dead and Missing Persons" that:

"(a) The Four-Party Joint Military Commission shall ensure joint action by the parties in implementing Article 8(b) of the Agreement. When the Four-Party Joint Military Commission has ended its activities, a Four-Party Joint Military team shall be maintained to carry on this task." Disagreements will be referred to the International Commission on Control and Supervision (Article 17 of the Agreement).

It is reemphasized that the U.S. Government will do everything in its power to insure that all parties adhere to the true sense of the Agreement. To this end, Major General Gilbert H. Woodward, United States Army, has been appointed as the United States Representative on the Four-Party Military Commission which will have representation from the United States,

South Vietnam, North Vietnam and the Viet Cong. General Woodward has had extensive experience in negotiations of this type as the Senior Member United Nations Command, Military Armistice Commission, United Nations Command/United States Forces Korea during the period leading up to and at the time of the USS PUEBLO crewmembers' release. The task of the Four-Party Military Commission will be to implement appropriate provisions of the Agreement, including Article 8 quoted above. As the U.S. Representative, General Woodward is responsible for obtaining from other members of the Commission all MIA information held by them, and will coordinate with them the investigations by U.S. teams of incidents surrounding the loss of each of our MIA personnel.

The United States Joint Casualty Resolution Center (JCRC) has been established at Nakhon Phanom (NKP), Thailand and is assigned the mission of resolving the status of U.S. missing personnel. Personnel from the JCRC will locate and investigate crash sites or grave sites throughout Southeast Asia as arranged through the Four-Party Joint Military Commission. The organization of the JCRC will provide the expertise for these investigations, utilizing air search and ground search teams and a central identification laboratory with a pool of specialists to inspect located crash and grave sites and recover remains.

It is expected that endeavors in remote areas will normally include air and ground searches for crash sites. U.S.-led teams in conjunction with an air search will thoroughly investigate assigned areas of operation for suspected crash and grave sites. If a crash or grave site is located, personnel from the Central Identification Laboratory (graves registration specialists) and crash site investigators will be utilized for a detailed on-scene investigation.

In the more inhabited areas, personal contact with the local people following extensive information programs and coordination will be a primary technique. Grave registration specialists with interpreters, exploiting information gained from all sources and with authority to grant suitable rewards for useful information will conduct the major efforts in those areas where the location of crash or grave sites is more likely to be known and reasonably accessible.

Certain areas require that highly qualified U.S. personnel lead the ground searches because many are in highly remote areas or in the vicinity of roads or trails which are heavily booby trapped and endangered

by unexploded ordnance. It is anticipated that recovery detachment teams will include indigenous personnel recruited, trained, and utilized in each country of interest with the cooperation of the host government.

While the Department of Defense will strive to accomplish this massive task of accounting for the missing military personnel in the shortest possible time, it must be realized that it will not be done quickly or easily. For example, in the case of a missing aircraft which crashed in the sea or uninhabited jungle, it is likely neither side in the recent conflict would know the whereabouts of the crash.

The Secretary of Defense and all Defense Department personnel realize and accept the obligation to do their best in performing this important task. This we owe to the families of the missing in action personnel. We intend to fulfill that obligation.

REPORTED FOR RELEASE AND RETURNED TO U.S. CONTROL

12 February - 1 April 1973

<u>COUNTRY</u>	<u>USA</u>	<u>USN</u>	<u>USAF</u>	<u>USMC</u>	<u>CIV</u>	<u>TOTAL</u>
NORTH VIETNAM	0	135	312	9	1	457
SOUTH VIETNAM	77	1	6	17	21	122
LAOS	0	1	6	0	2	9
CHINA	0	1	1	0	1	3*
TOTAL	77	138	325	26	25	591**

* Detainees in PRC who were released during the referenced time period and processed through the HOMECOMING system

** Total does not include third country nationals

RELEASE INCREMENTS AND DATES

<u>PLACE</u>	<u>DATE</u>	<u>MILITARY/CIVILIAN</u>	
NORTH VIETNAM (DRV)	12 February 1973	116	0
SOUTH VIETNAM (PRG)	12 February 1973	19	8
NORTH VIETNAM (DRV)	18 February 1973	20	0
NORTH VIETNAM (DRV)	4 March 1973	106	0
NORTH VIETNAM (PRG)	5 March 1973	27	3
CHINA (PRC)	12 March 1973	0	1
NORTH VIETNAM (DRV)	14 March 1973	107	1
CHINA (PRC)	15 March 1973	2	0
NORTH VIETNAM (PRG)	16 March 1973	27	5
NORTH VIETNAM (PRG)	27 March 1973	27	5
NORTH VIETNAM (PATHET LAO)	28 March 1973	7	2
NORTH VIETNAM (DRV)	28 March 1973	40	0
NORTH VIETNAM (DRV)	29 March 1973	67	0
SOUTH VIETNAM (PRG)	1 April 1973	1	0
		566	25

FACT SHEET

UNITED STATES JOINT CASUALTY RESOLUTION CENTER

The Joint Casualty Resolution Center (JCRC), commanded by Army Brigadier General Robert Kingston, is a joint task force established by and under the command of the Commander in Chief Pacific. The unit is under the operational control of the Commander, United States Support Activities Group (USSAG). The Joint Casualty Resolution Center operates under Joint Chiefs of Staff approved mission and joint table of distribution.

The Joint Casualty Resolution Center is an outgrowth of United States Government efforts to identify, document, and maintain records of known and suspected missing in action and prisoners of war. These records were initially maintained by the Joint Personnel Recovery Center (JPRC), Saigon beginning in 1966. When the JCRC was established in Saigon on 23 January 1973, the records of the JPRC were turned over to the new organization.

The mission of the JCRC is to assist in resolving the status of those U.S. personnel missing in action (MIA) and those personnel declared dead whose bodies were not recovered (BNR), through the provision of information/coordination and/or conduct of operations to locate and investigate crash and grave sites and recover and identify remains throughout Southeast Asia.

In planning for our field operations, we use the following assumptions:

a. All parties concerned will meet their obligations with respect to MIA's and dead assumed under the Vietnam and Lao agreements and will mutually assist in the resolution of such cases.

b. Conditions for coordination with personnel in countries concerned will be provided in accordance with terms of the cease-fire agreements.

c. Coordination of in-country activities in Laos and Cambodia will be accomplished through CINCPAC senior military representatives or designated American Embassy officers.

d. Coordination of in-country activities within North and South Vietnam will be accomplished through negotiations within the Four-Party Joint Military Team.

e. Access to all pertinent areas of Southeast Asia will be sought to allow JCRC teams to conduct casualty resolution operations.

In Saigon, an officer assigned to the Office of the Defense Attache, American Embassy, has been designated to act as a channel for direct communications between JCRC Headquarters and the U.S. Delegation to the FPJMT.

The JCRC is organized under a dual deputy system: The Deputy Commander for Staff Operations is responsible for the staff planning and coordination; the Deputy Commander for the Field Operations supervises the field units.

Organizationally, the JCRC staff accomplishes the normal staff functions. Additional comments need to be made on three of the staff elements.

The Public Affairs Officer on the staff provides all available information on JCRC activities to the MACTHAI PAO in Bangkok. A JCRC officer is assigned to that office, where he serves as a casualty resolution point of contact and is in constant contact with the JCRC on all casualty resolution matters.

The Casualty Data Division assembles, correlates, and analyzes information on personnel who are missing in the vicinity of crash and burial sites. The function of this division includes data analysis, automated data processing, photo interpretation of aerial photos of crash sites, crash/grave site identification of areas in which JCRC teams will operate, and the maintaining of casualty records or dossiers on those personnel who have been in a missing in action status at one time or another during the conflict.

The Operations Division directs activities in the areas of operations, plans and communications. It also has a Public Communications Branch which provides staff assistance in the development of public information programs in an effort to obtain additional information concerning crash and burial sites.

The major subordinate elements involved in field operations are two control teams, one oriented toward operations in Vietnam and one toward Laos and Cambodia. These control teams provide command and control of casualty resolution field teams, each comprised of five men, and will have operational command of all special augmentation personnel needed to accomplish the mission. Each control team has the capability of launching, supporting, and extracting the field teams and provides for requisite air, communications, and logistics support.

The field teams which will search for crash or grave sites consist of an officer, a radio operator, a medic, an interviewer, and a general duty assistant to the officer in charge, who are all Special Forces Troops.

Special Forces personnel will be used because they are trained to cooperate harmoniously with indigenous peoples, are familiar with jungle terrain and survival techniques, and are available for this humanitarian effort with minimum additional training. The field teams will be augmented, as required, by Air Force air crash investigators, ordnance demolition technicians provided to disarm unexploded ordnance and booby traps at crash sites, and by indigenous personnel who will assist in the search and on-site operations. The JCRC has 11 organic field teams, with an augmentation capability of 10 more teams from the 1st Special Forces Group on Okinawa and 16 teams from U.S. Special Forces assets in Thailand.

The Central Identification Laboratory, Thailand (CIL), located at Sam San, between U-tapao and Sattahip in Southeastern Thailand, about 60 miles from Bangkok, is under the operational command of the Joint Casualty Resolution Center. The CIL is organized into an identification laboratory and eight five-man recovery teams which will accompany the casualty resolution field teams.

The field teams will be deployed in various ways. They can be utilized as separate entities in the search operations for selected locations; they can be deployed in a cluster arrangement. This concept visualizes a number of concurrent and consecutive crash/grave site operations in one general area. This area would be in the vicinity of a forward operating base which ideally would be adjacent to an air strip that accommodates arrival, resupply, and departure aircraft. The cluster provides a single area to concentrate on, allows for maximum advantage to be taken of predicted climatic and weather cycles, maximizes the use of helicopters by short but frequent missions to support several teams in one area, enhances the command, control, and communications support, number of field teams from the central operating base, facilitates insertion and reduces the insertion problem of the special augmentation personnel (Explosive Ordnance Disposal [EOD], crash investigators, documentary and CIL recovery teams).

A review of the steps that would be involved in the recovery process. First, the Casualty Resolution Staff develops selected areas for search and investigation based on known crash and grave sites. The detailed planning and coordination effort using all available information on an aerial search of the area, if authorized. This combined search will be followed by insertion of the forward operating base and its field teams and special augmentation personnel. A detailed search inspection will follow. The results of these missions will be carefully documented. Upon completion of the search and investigation process, teams and forward operating base will be extracted. Remains that have been located will be flown to the CIL for identification.

After analysis and recording has been completed, a detailed report will be forwarded to the services to assist in final determination on status of the personnel. Identified remains will be returned to the United States for burial as desired by next of kin.



LEGISLATIVE
AFFAIRS

ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

June 7, 1973

MEMORANDUM FOR SENATORS AND MEMBERS OF THE HOUSE
OF REPRESENTATIVES

The President and the Secretary of Defense consider that the fullest possible accounting of our missing in Southeast Asia is a matter of extreme and continuing importance. I am sure that you join with our citizens in this concern for the missing.

In order that you will continue to be informed concerning the Department of Defense plans and intentions in this important matter and to keep you personally informed of the current status of the efforts toward the fullest possible accounting, I have enclosed the recent statement of Dr. Roger E. Shields which was made before a subcommittee in the House of Representatives.

I hope you will find this statement and attachment helpful.

John S. Marsh, Jr.
John S. Marsh, Jr.

Enclosure

STATEMENT
OF
DR. ROGER E. SHIELDS
ASSISTANT TO THE ASSISTANT SECRETARY OF DEFENSE
(INTERNATIONAL SECURITY AFFAIRS)
BEFORE THE
SUBCOMMITTEE ON NATIONAL SECURITY POLICY
AND SCIENTIFIC DEVELOPMENT
FOREIGN AFFAIRS COMMITTEE
HOUSE OF REPRESENTATIVES

- 31 MAY 1973

MR CHAIRMAN, MEMBERS OF THE COMMITTEE:

IT IS A PRIVILEGE FOR ME TO REPRESENT THE DEPARTMENT OF DEFENSE HERE TODAY. I PARTICULARLY WELCOME THE OPPORTUNITY TO TALK WITH YOU BECAUSE, UNLIKE THE LAST TIME WE MET, PART OF A GREAT EFFORT IN BEHALF OF OUR MISSING AND CAPTURED MEN AND THEIR FAMILIES HAS REACHED A HEARTWARMING AND SATISFYING CONCLUSION. I AM REFERRING SPECIFICALLY TO THE RETURN FROM CAPTIVITY OF 566 AMERICAN MILITARY PERSONNEL AND 25 U.S. CIVILIANS. NINE FOREIGN NATIONALS WERE ALSO RELEASED. I WOULD LIKE TO INSERT IN THE RECORD AT THIS POINT A STATISTICAL SUMMARY OF THESE 591 RETURNED AMERICANS.

AS YOU KNOW, THESE AMERICANS WERE TAKEN PRISONER WHILE SERVING IN SOUTHEAST ASIA. THEIR PERIOD OF CAPTIVITY RANGED FROM ONLY A FEW MONTHS TO AS LONG AS TEN YEARS. DURING THIS TIME THEY FACED DEPRIVATIONS AND MADE SACRIFICES THAT VERY FEW MEN EVER ENCOUNTER. HERE AT HOME THE FAMILIES OF OUR MISSING AND CAPTURED ENDURED YEARS OF FRUSTRATION WAITING FOR SOME WORD ABOUT THE CONDITION OR STATUS OF THEIR MEN. THESE FAMILIES WERE JOINED BY COUNTLESS AMERICANS AND VIRTUALLY EVERY GOVERNMENT AGENCY IN A GREAT NATIONAL ENDEAVOR TO OBTAIN A FULL AND ACCURATE ACCOUNTING OF ALL THE MEN, AND BETTER TREATMENT AND THE ULTIMATE RELEASE OF THOSE HELD CAPTIVE. AS I

HAVE INDICATED, ONLY PART OF OUR WORK IS FINISHED. ABOUT 1300 MEN STILL REMAIN UNACCOUNTED FOR AND THEIR FAMILIES CONTINUE THE SEEMINGLY ENDLESS VIGIL IN THEIR BEHALF. I WILL DISCUSS OUR CURRENT EFFORTS TO RESOLVE THE PERPLEXING ISSUE OF THOSE WHO DID NOT RETURN IN JUST A MOMENT.

DURING THE MONTHS AND YEARS PRECEDING THE LONG AWAITED RETURN OF OUR MEN, A MAJOR PART OF OUR WORK INVOLVED DETAILED PLANNING FOR THEIR REPATRIATION. PRESENTATIONS BEFORE THIS AND OTHER COMMITTEES USUALLY CENTERED AROUND THE ANTICIPATED PROBLEMS OF RECEPTION, PROCESSING, REHABILITATION, AND READJUSTMENT OF THE RETURNED PRISONERS OF WAR. MUCH OF THIS PLANNING WAS DONE IN THE FACE OF GREAT UNCERTAINTY. FOR EXAMPLE, WE DID NOT KNOW HOW MANY MEN WOULD BE RELEASED, WHAT CONDITION THEY WOULD BE IN, OR EVEN WHERE THEY WOULD BE RETURNED TO US. THESE UNCERTAINTIES NECESSITATED PLANNING FOR A WIDE RANGE OF POSSIBILITIES WITH CONTINGENCY PLANS READY AT OUR MILITARY HOSPITALS IN EUROPE AS WELL AS IN THE PACIFIC THEATER. I CAN SAY WITH CONSIDERABLE SATISFACTION THAT OUR HOMECOMING PLANS WERE WELL-FOUNDED. FROM THE MOMENT THE FIRST 116 MEN WERE RELEASED IN NORTH VIETNAM ON FEBRUARY 12, 1973, UNTIL THE LAST ONE WAS RELEASED BY THE PRG IN SOUTH VIETNAM ON APRIL 1, 1973, THE RETURN OF OUR MEN WAS HANDLED WITH EFFICIENCY, THOROUGHNESS, AND SENSITIVITY. THE INITIAL RECEPTION, AEROMEDICAL EVACUATION, ENROUTE MEDICAL TREATMENT, AND THE ULTIMATE FAMILY REUNIONS AND PROCESSING IN

THE UNITED STATES ARE A TRIBUTE TO THE OUTSTANDING COOPERATION AND MUTUAL SUPPORT DEMONSTRATED BY THE FOUR MILITARY SERVICES. WE IN THE DEPARTMENT OF DEFENSE RECEIVED UNPARALLELED COOPERATION AND ASSISTANCE FROM AGENCIES IN BOTH THE FEDERAL AND STATE GOVERNMENTS; ESPECIALLY FROM THE DEPARTMENT OF STATE, THE CONGRESS OF THE UNITED STATES, AND OUR PRESIDENT.

OUR RETURNED MEN HAVE NOW COMPLETED THE HOMECOMING PROCESSING EVENTS. MOST OF THEM ARE ON CONVALESCENT LEAVE AND ARE BUSY GETTING ACQUAINTED WITH THEIR FAMILIES AND THEIR COUNTRY ONCE AGAIN. MANY HAVE ALREADY RECEIVED FUTURE ASSIGNMENTS AND ARE PREPARING TO RESUME ACTIVE MILITARY CAREERS. SOME ARE UNDERGOING SCHEDULED TREATMENT TO CORRECT PHYSICAL DEFICIENCIES NOTED DURING THE DETAILED MEDICAL EVALUATION RECEIVED OVERSEAS AND HERE AT HOME. ALL OF THE MEN HAVE BEEN BROUGHT UP TO DATE IN PERSONNEL AND FINANCIAL MATTERS AND HAVE BEEN DEBRIEFED ON THEIR EXPERIENCES IN CAPTIVITY. THE 31 MILITARY INSTALLATIONS THAT ACCOMPLISHED THE PROCESSING IN THE US REMAIN AS HEADQUARTERS FOR THE MEN WHILE THEY ARE FREE ON CONVALESCENT LEAVE AND UNTIL THEY ACTIVELY RESUME MILITARY OR CIVILIAN PROFESSIONS. ALL AGENCIES IN THE DEPARTMENT OF DEFENSE STAND READY TO HELP THE MEN AND THEIR FAMILIES DURING THIS TRANSITION PERIOD.

IN THE FUTURE, WE ARE PREPARED TO PROVIDE WHATEVER ASSISTANCE IS REQUIRED FOR AS LONG AS MAY BE NECESSARY. FOR EXAMPLE, THE DEPARTMENT OF DEFENSE HAS

IMPLEMENTED A PROGRAM THROUGH WHICH RETURNED MEN WHO LEAVE THE MILITARY PRIOR TO OBTAINING RETIREMENT ELIGIBILITY WILL, ALONG WITH THEIR FAMILIES, BE AUTHORIZED TO OBTAIN HEALTH CARE IN ANY MILITARY MEDICAL FACILITY FOR A PERIOD OF FIVE YEARS FROM THE DATE OF SEPARATION. NEAR THE END OF THE FIVE YEAR PERIOD, EACH SITUATION WILL BE REEVALUATED. THIS PROGRAM WILL HELP GUARANTEE THAT EACH RETURNED PRISONER OF WAR WILL RECEIVE IMMEDIATE AND LONG-TERM MEDICAL ATTENTION FROM MILITARY MEDICAL SPECIALISTS WHO ARE FAMILIAR WITH THE SOUTHEAST ASIA CAPTIVITY ENVIRONMENT, AND WHO HAVE ACCESS TO COMPLETE RECORDS AND DOCUMENTATION IN THE MILITARY MEDICAL ARCHIVES. FOR THOSE WHO ELECT TO LEAVE THE MILITARY, WE ARE ALSO PREPARED TO PROVIDE A FULL RANGE OF JOB COUNSELING AND ASSISTANCE IN COOPERATION WITH PRIVATE INDUSTRY. FOR THOSE WHO REMAIN ON ACTIVE DUTY, THE SERVICES HAVE DEVELOPED SPECIAL RETRAINING AND FAMILIARIZATION PROGRAMS. ONE PROGRAM, FOR EXAMPLE, INVOLVES TWO WEEKS OF ACADEMIC-UPDATING ON MILITARY, NATIONAL, AND INTERNATIONAL MATTERS.

MUCH OF THE CREDIT FOR THE SUCCESS OF HOMECOMING MUST BE GIVEN TO THE MEN THEMSELVES AND TO THEIR FAMILIES. THEY HANDLED THE REPATRIATION EVENTS AND THE REUNION WITH FAMILIES AND COUNTRYMEN WITH GREAT DIGNITY AND PATRIOTISM. THEY HAVE BEEN AN INSPIRATION TO THIS COUNTRY. BASED ON THE ACCOUNTS OF THEIR CAPTIVITY EXPERIENCES, I WOULD SAY THAT THEIR ABILITY TO

ENDURE SO LONG UNDER SUCH HARSH CONDITIONS CAN BE LARGELY ATTRIBUTED TO THEIR COURAGE AND DETERMINATION AND TO THEIR FAITH IN GOD AND COUNTRY.

WHILE WE ARE GRATEFUL FOR THE RETURN OF THESE MEN, OUR JOY AND SENSE OF ACCOMPLISHMENT ARE TEMPERED BY THE FACT THAT OTHERS, LISTED BY OUR GOVERNMENT AS MISSING AND CAPTURED, DID NOT RETURN. A FULL ACCOUNTING FOR THESE MEN IS NOT YET AVAILABLE TO US. SOME FEAR THAT IN THE WAKE OF HOMECOMING, WE WILL FORGET THOSE WHO ARE UNACCOUNTED FOR AND IGNORE THE PLIGHT OF THEIR FAMILIES. I WANT TO ASSURE YOU THAT THIS WILL NOT HAPPEN. THE DEPARTMENT OF DEFENSE WILL CONTINUE TO SEEK THE FULLEST POSSIBLE ACCOUNTING FOR THESE MEN AND TO PROVIDE THEIR FAMILIES WITH EVERY POSSIBLE ASSISTANCE JUST AS WE HAVE IN THE PAST. IN ADDITION, WE WILL SEEK TO RECOVER THE REMAINS OF THE MISSING WHO HAVE DIED AND THOSE WHO ARE ALREADY LISTED AS KILLED IN ACTION BUT WHOSE REMAINS HAVE NOT BEEN RECOVERED.

BEFORE DISCUSSING THE PREPARATIONS THAT WE HAVE MADE AND THE ACTIONS WE ARE NOW TAKING TO ACHIEVE OUR OBJECTIVES, I WOULD LIKE TO PLACE THE PROBLEM IN PERSPECTIVE BY INSERTING IN THE RECORD A STATISTICAL BREAKDOWN OF SOME 1300 MEN WHO REMAIN UNACCOUNTED FOR IN SOUTHEAST ASIA. IN ADDITION TO THIS NUMBER, THERE ARE ABOUT 1100 OTHERS WHO HAVE BEEN DECLARED DEAD BY THE SERVICES BUT WHOSE REMAINS HAVE NOT BEEN RECOVERED.

AS THE MEMBERS OF THE COMMITTEE KNOW, EVERY POSSIBLE AVENUE WAS EXPLORED PRIOR TO THE RELEASE OF OUR MEN TO GAIN ACCURATE INFORMATION ABOUT THOSE LISTED AS MISSING OR CAPTURED. EVEN WHILE WE PLANNED OUR REPATRIATION ACTIVITIES, WE SIMULTANEOUSLY PREPARED FOR THE TIME WHEN DIRECT ACTION TO ACCOUNT FOR OUR MISSING WOULD BE POSSIBLE THROUGH NEGOTIATION OR SYSTEMATIC SEARCH. TO DATE, EXTENSIVE DATA HAS BEEN GATHERED AND STORED IN AUTOMATED DATA HANDLING SYSTEMS FOR EASE IN CORRELATION AND ANALYSIS. THIS DATA INCLUDES EXTENSIVE DESCRIPTIVE INFORMATION ON THE INDIVIDUALS CONCERNED, SUCH AS CAREFULLY PLOTTED LOCATIONS WHERE THEY WERE LAST SEEN, AND EYEWITNESS ACCOUNTS FROM OUR OWN FORCES AS WELL AS ALL ACCESSIBLE INDIGENOUS RESIDENTS WHO WERE KNOWN TO POSSESS INFORMATION ABOUT OUR PRISONERS OR MISSING. ONE COMPUTERIZED PROGRAM THAT IS PARTICULARLY UNIQUE CONTAINS INFORMATION TAKEN FROM MEDICAL RECORDS CONCERNING ALL INDIVIDUAL PHYSICAL CHARACTERISTICS WHICH WOULD, WITH THE AID OF ADVANCED TECHNOLOGY, HELP FACILITATE THE PROMPT AND ACCURATE IDENTIFICATION OF ANY REMAINS THAT ARE RECOVERED.

IN ORDER TO UPDATE MEMBERS OF CONGRESS ON EFFORTS BEING MADE TO RESOLVE THE SERIOUS PROBLEM OF ACCOUNTING FOR THE MISSING, THE DEPARTMENT OF DEFENSE SUBMITTED A PAPER TO THEM ON FEBRUARY 2, 1973. BEFORE PROCEEDING FURTHER, I WOULD LIKE TO SUBMIT FOR THE RECORD THIS PAPER AND ITS MEMORANDUM OF TRANSMITTAL.

THERE ARE NOW TWO PRIMARY AGENCIES UPON WHICH WE ARE RELYING HEAVILY TO HELP RESOLVE THE STATUS OF OUR MISSING: THE FOUR-PARTY JOINT MILITARY TEAM (FPJMT) AND THE JOINT CASUALTY RESOLUTION CENTER (JCRC). IN ACCORDANCE WITH THE AGREEMENTS SIGNED IN PARIS, THE FOUR-PARTY JOINT MILITARY TEAM WAS ESTABLISHED AFTER TERMINATION OF THE FOUR-PARTY JOINT MILITARY COMMISSION EXPRESSLY FOR THE PURPOSE OF ARRANGING FOR THE RECOVERY OF REMAINS AND EXCHANGING INFORMATION TO HELP CLARIFY THE STATUS OF THE MISSING. THE JOINT CASUALTY RESOLUTION CENTER WAS ACTIVATED IN JANUARY OF THIS YEAR IN SOUTH VIETNAM. IN FEBRUARY, WITH APPROVAL OF THE ROYAL THAI GOVERNMENT, THE JOINT CASUALTY RESOLUTION CENTER RELOCATED TO NAKHON PHANOM ROYAL THAI AIR FORCE BASE IN NORTHEASTERN THAILAND. WITHIN THE LIMITS IMPOSED UPON IT, THE JOINT CASUALTY RESOLUTION CENTER SUPERVISES AND CONDUCTS SEARCH OPERATIONS DESIGNED TO RESOLVE THE FATE OF THE MISSING AND RECOVER REMAINS WHEREVER POSSIBLE. THE ENTIRE OPERATION IS PEACEFUL, OPEN, AND HUMANITARIAN IN NATURE. IN ITS CURRENT LOCATION, THE JOINT CASUALTY RESOLUTION CENTER IS CENTRALLY LOCATED WITH REGARD TO ALL THE AREAS IN WHICH AMERICAN PERSONNEL WERE LOST.

THE MISSION OF OUR DELEGATION TO THE FOUR-PARTY JOINT MILITARY TEAM HAS THREE PRIMARY ASPECTS: (1) TO OBTAIN INFORMATION FROM THE OTHER SIDE ABOUT US MILITARY AND CIVILIAN PERSONS WHO ARE MISSING IN ACTION; (2) TO OBTAIN INFORMATION ABOUT THE LOCATION OF THE GRAVES OF THOSE PERSONS WHO DIED IN CAPTIVITY OR WERE KILLED IN ACTION; AND (3) TO NEGOTIATE ENTRY

RIGHTS FOR U.S. SEARCH AND INSPECTION OPERATIONS INTO AREAS WHERE THERE ARE BELIEVED TO BE UNRECOVERED REMAINS OR WHERE THOSE STILL UNACCOUNTED FOR WERE LAST BELIEVED TO BE LOCATED.

THE CHIEF OF OUR DELEGATION, AN ARMY COLONEL, IS RESPONSIBLE THROUGH THE DEFENSE ATTACHE OFFICE IN SAIGON AND THE U.S. SUPPORT ACTIVITY GROUP IN THAILAND TO THE U.S. COMMANDER IN CHIEF, PACIFIC, ADMIRAL NOEL GAYLER. OUR DELEGATION IS ALSO RESPONSIVE TO THE POLICY GUIDANCE AND INSTRUCTIONS OF THE AMBASSADOR IN SAIGON. SINCE THE FIRST MEETING OF THE TEAM ON APRIL 4, OVER TWENTY SESSIONS HAVE BEEN HELD. ON TWO OCCASIONS, MAY 11 AND 18, THE TEAM, ALONG WITH REPRESENTATIVES OF THE JOINT CASUALTY RESOLUTION CENTER, JOURNEYED TO NORTH VIETNAM WHERE BURIAL SITES, ALLEGEDLY OF AMERICAN SERVICEMEN, WERE SEEN. IDENTIFICATION AND RECOVERY OF REMAINS WERE NOT UNDERTAKEN ON THESE OCCASIONS BECAUSE OF LACK OF PERMISSION FROM THE NORTH VIETNAMESE. WE ARE CURRENTLY TRYING TO ARRANGE FOR THE EXHUMATION AND REPATRIATION OF THESE REMAINS AND OF ANY OTHER AMERICAN DEAD KNOWN TO THE OTHER SIDE.

ANOTHER ISSUE THAT IS OF MAJOR CONCERN TO US IS THE ACQUISITION OF ENTRY RIGHTS FOR OUR SEARCH TEAMS TO AREAS THROUGHOUT SOUTHEAST ASIA WHERE OUR MEN ARE MISSING. THE SUCCESS OF THE JOINT CASUALTY RESOLUTION CENTER'S MISSION DEPENDS HEAVILY ON THE OPERATING AUTHORITIES AND THE COOPERATION OF THE COUNTRIES INVOLVED. WE BELIEVE THAT OUR SEARCH TEAMS

SHOULD BE GIVEN ACCESS TO ALL LOCATIONS WHERE OUR MEN ARE BELIEVED TO BE MISSING. THIS IS ESPECIALLY TRUE FOR LAOS WHERE ONLY NINE AMERICANS WERE LISTED FOR REPATRIATION WHILE OVER 300 OF OUR MEN STILL REMAIN UNACCOUNTED FOR. OUR TEAMS POSSESS THE GREAT EXPERTISE REQUIRED FOR THIS COMPLEX AND DANGEROUS MISSION, AS WELL AS THE MOTIVATION TO DO A COMPLETE AND THOROUGH JOB. NEVERTHELESS, WE INVITE AND WELCOME HOST COUNTRY PARTICIPATION IN THE ACTIVITIES OF OUR FIELD TEAMS. INDEED, WE FEEL THAT HOST COUNTRY PARTICIPATION IS ESSENTIAL TO THE SAFETY OF OUR OWN TEAMS AND TO THE SUCCESS OF THE MISSION.

TO GIVE YOU A BETTER IDEA OF THE TASK FACING THE JOINT CASUALTY RESOLUTION CENTER AND OUR NEGOTIATORS, LET ME TURN BACK TO SOME STATISTICS THAT I MENTIONED EARLIER. AS YOU RECALL, I SAID THAT THERE ARE SOME 1300 WHO ARE UNACCOUNTED FOR IN SOUTHEAST ASIA AND SOME 1100 OTHERS WHO HAVE BEEN DECLARED OFFICIALLY DEAD BY THE SERVICES BUT WHOSE REMAINS HAVE NOT BEEN RECOVERED. MORE THAN 1900 OF THE COMPOSITE 2400 IN THESE TWO CATEGORIES ARE THE RESULT OF AIR CRASHES. THERE ARE MORE THAN 1000 SUCH CRASH SITES INVOLVING OVER 50 DIFFERENT TYPES AND MODELS OF AIRCRAFT. THE NUMBER VARIES FROM NEARLY 400 IN NORTH VIETNAM TO LESS THAN 20 IN CAMBODIA. THESE CRASH SITES ARE SCATTERED THROUGHOUT THE RUGGED TERRAIN OF SOUTHEAST ASIA -- ON MOUNTAINS AND IN DENSE UNINHABITED JUNGLES. APPROXIMATELY 150 OF THE CRASHES WERE AT SEA. SOME 90 PERCENT OF THE SITES ARE IN MILITARILY CONTESTED AREAS OR IN AREAS CONTROLLED BY THE OTHER SIDE.

SO FAR, SOME FIVE CRASH SITES IN NON-CONTESTED AREAS OF SOUTH VIETNAM HAVE BEEN INSPECTED. THE INSPECTION OF THESE SITES HAS ALLOWED REFINEMENT OF PROCEDURES AND TECHNIQUES IN PREPARATION FOR THE MORE COMPLEX AND HAZARDOUS OPERATIONS TO COME. PIECES OF AIRCRAFT WRECKAGE AND OTHER MATERIALS HAVE BEEN LOCATED AND ARE BEING ANALYZED FOR IDENTIFICATION PURPOSES. ON ONE OF THE FIRST SEARCH OPERATIONS, A SOUTH VIETNAMESE SOLDIER WAS KILLED BY AN UNEXPLODED BOOBY TRAP WHILE PARTICIPATING WITH AN ADVANCE ELEMENT THAT HAD BEEN SENT TO CLEAR THE AREA FOR THE MAIN SEARCH PARTY. THIS IS A CLEAR INDICATION THAT THE OVERALL EFFORT WILL BE BOTH DIFFICULT AND DANGEROUS. FOR THE RECORD, I WOULD LIKE TO SUBMIT A FACT SHEET ON THE JOINT CASUALTY RESOLUTION CENTER THAT EXPLAINS IN GREATER DETAIL THE UNIT'S ORGANIZATIONAL STRUCTURE AND METHODS OF OPERATION.

I WOULD LIKE TO ADDRESS NOW THE QUESTION OF THE DEGREE OF SUCCESS THAT WE MIGHT ULTIMATELY ACHIEVE AND HOW LONG THIS MIGHT TAKE. PRIOR TO THE REPATRIATION OF OUR PRISONERS THERE WERE HIGH EXPECTATIONS THAT LARGE NUMBERS OF MISSING IN ACTION CASES COULD BE RESOLVED FROM DEBRIEFINGS OF THE RETURNED MEN. UNFORTUNATELY, THIS HAS NOT BEEN THE CASE. THE DEBRIEFINGS HAVE BEEN PERFORMED IN A PROFESSIONAL MANNER WITH SENSITIVITY, AND THE DATA CAREFULLY ANALYZED AND STORED FOR FUTURE REFERENCE. NEVERTHELESS, IT APPEARS THAT LESS THAN 100 STATUS CHANGES WILL BE MADE ON THE BASIS OF THIS INFORMATION. WE

ARE HOPEFUL THAT A SIGNIFICANT NUMBER OF ADDITIONAL STATUS CHANGES WILL RESULT FROM NEGOTIATED ARRANGEMENTS FOR THE EXCHANGE OF INFORMATION AND THE RETURN OF REMAINS FROM LOCATIONS THROUGHOUT INDOCHINA. HOW QUICKLY WE WILL ACHIEVE RESULTS FROM THESE EFFORTS I CANNOT SAY. THE FOUR-PARTY JOINT MILITARY TEAM HAS MADE SOME PROGRESS IN THIS AREA, AND I AM HOPEFUL THAT OUR PATIENCE AND PERSISTENCE WILL BE REWARDED BY ULTIMATE SUCCESS.

EVEN AFTER ALL INFORMATION HAS BEEN EXCHANGED AND ALL KNOWN REMAINS EXHUMED AND REPATRIATED, THERE WILL UNDOUBTEDLY BE CASES WHICH YET REMAIN TO BE RESOLVED. TAKE AS AN EXAMPLE THE CASE OF A MISSING AIRCRAFT WHICH CRASHED IN THE SEA OR UNINHABITED JUNGLE. IT IS LIKELY NEITHER SIDE IN THE RECENT CONFLICT WOULD KNOW THE WHEREABOUTS OF THE WRECKAGE OR THE FATE OF THE CREW. IN OTHER CASES, EVEN THOUGH THE LOCATIONS WERE ONCE KNOWN, IT IS POSSIBLE THAT BOTH WRECKAGE AND GRAVE SITES MAY HAVE SUCCEumbed TO THE RAVAGES OF TIME AND THE HAVOC OF WAR. IT IS ABUNDANTLY CLEAR THAT THE TASKS OF DETERMINING HOW SOME OF OUR MISSING DIED AND THE RECOVERY OF REMAINS COULD BE PROLONGED IF NOT IMPOSSIBLE.

AS FOR THOSE WHO ARE THOUGHT TO HAVE BEEN CAPTURED ALIVE BUT WHO HAVE NOT BEEN RETURNED, LET ME SAY THAT THIS IS PERHAPS THE MOST AGONIZING AND FRUSTRATING ISSUE OF ALL. THESE ARE THE CASES OF MEN WHO WERE SEEN ON THE GROUND OR WHOSE PICTURES WERE RELEASED SUBSEQUENT TO CAPTURE BUT WHO, FOR ONE REASON OR ANOTHER, HAVE NOT RETURNED AND FOR WHOM THE OTHER SIDE HAS YET TO PROVIDE A SATISFACTORY EXPLANATION. WE DO NOT CONSIDER THE LISTS

RECEIVED SO FAR TO BE A COMPLETE AND ACCURATE ACCOUNTING FOR OUR MEN. WE DO HAVE, THOUGH, AN AGREEMENT WHICH PROVIDES FOR ALL ACTIONS NECESSARY TO ACCOUNT AS COMPLETELY AS POSSIBLE FOR ALL WHO HAVE NOT RETURNED OR ARE OTHERWISE UNACCOUNTED FOR. WE BELIEVE THAT IMPLEMENTATION OF THIS AGREEMENT WILL PROVIDE THE SPEEDIEST AND MOST SATISFACTORY ANSWERS TO OUR QUESTIONS.

IN SUMMARY, WE ARE WORKING NOW TO FINALIZE ARRANGEMENTS WHICH WILL PROVIDE FOR THE SPEEDY RETURN OF REMAINS OF OUR KNOWN DEAD FROM LOCATIONS THROUGHOUT SOUTHEAST ASIA, AND FOR THE ACQUISITION OF CLARIFYING INFORMATION ON ANY OTHERS. ON THE OTHER HAND, THE TASK OF INSPECTING CRASH SITES OR LOCATIONS WHERE THE MISSING WERE LAST SEEN AND OF FINDING, EXHUMING, AND IDENTIFYING REMAINS MAY BE DIFFICULT AND PROLONGED, AT LEAST OVER SEVERAL YEARS, ESPECIALLY IF OPERATING LIMITATIONS REMAIN AN OBSTACLE. SOME CRASH SITES AND GRAVES MAY NEVER BE FOUND.

AS FOR STATUS CHANGES, I WANT TO EMPHASIZE THAT THEY ARE NOT UNALTERABLY TIED TO THE INSPECTION OF COMBAT SITES OR TO THE RECOVERY OF REMAINS. WE HAVE MADE CHANGES IN STATUS FROM MISSING IN ACTION OR PRISONER OF WAR TO KILLED IN ACTION THROUGHOUT THE RECENT CONFLICT. SINCE MARCH, THE SERVICES HAVE MADE ABOUT 80 MORE STATUS CHANGES TO KILLED IN ACTION, AND WE CAN EXPECT THAT MORE WILL BE MADE ON A CONTINUING BASIS IN THE FUTURE.

THE RECORDING AND CHANGING OF STATUS OF THE MISSING ARE GOVERNED BY SECTIONS 551-558, TITLE 37, UNITED STATES CODE. UNDER PUBLIC LAW, THE SERVICE SECRETARIES ARE GIVEN RESPONSIBILITY FOR STATUS CHANGES. TO ASSIST HIM, EACH SECRETARY CALLS UPON PROFESSIONALS WITHIN HIS ORGANIZATION WHO CONDUCT AN EXHAUSTIVE STUDY, BASED ON ALL AVAILABLE INFORMATION OF EACH INDIVIDUAL CASE. THEIR TASK IS A PAINFUL ONE REQUIRING COUNTLESS HOURS OF DELIBERATION AND CALLING ULTIMATELY FOR DIFFICULT DECISIONS. THE SUBJECT OF STATUS DETERMINATIONS IS NOT A NEW ONE FOR THE SERVICES. THOSE INVOLVED IN THIS OFTEN UNHAPPY PART OF THE PRISONER OF WAR/MISSING IN ACTION ISSUE ARE EXPERIENCED AND SKILLED AND EXPERT IN UPHOLDING THE PUBLIC LAW AND AT THE SAME TIME PROTECTING, TO THE BEST OF THEIR ABILITY, THE ULTIMATE INTERESTS OF THE MISSING MEN AND THEIR FAMILIES.

IN MAKING STATUS DETERMINATIONS, TWO POSSIBILITIES EXIST BESIDES THE OPTION OF RETAINING THE INDIVIDUAL IN A MISSING STATUS. IN THOSE CASES WHERE INFORMATION IS RECEIVED WHICH CONCLUSIVELY ESTABLISHES THAT THE MEMBER IS DEAD, THEN A REPORT OF DEATH WILL BE ISSUED. A FINDING OF DEATH, COMMONLY KNOWN AS A "PRESUMPTIVE FINDING" IS MADE WHEN CIRCUMSTANCES ARE SUCH THAT THE MISSING INDIVIDUAL CANNOT REASONABLY BE PRESUMED TO BE LIVING. AN INDIVIDUAL WHO WAS LOST OVER WATER AND WHO WAS NOT AMONG THOSE RELEASED OR ACKNOWLEDGED BY THE OTHER SIDE IN ANY WAY IS A GOOD EXAMPLE OF A POTENTIAL "PRESUMPTIVE FINDING."

THE PROBLEMS SURROUNDING THE QUESTION OF THOSE NOT YET ACCOUNTED FOR ARE DIFFICULT IN EVERY RESPECT. WE ARE PREPARED TO DO THE JOB THROUGH THE MACHINERY THAT WE NOW HAVE IN MOTION, BUT WE ARE CONVINCED THAT THE ISSUE WILL NOT BE RESOLVED QUICKLY OR EASILY. I WANT TO ASSURE YOU AGAIN THAT WE WILL UPHOLD OUR RESPONSIBILITIES AND OUR OBLIGATIONS IN THIS MATTER. WE WILL PROVIDE THE FAMILIES OF OUR MISSING MEN EVERY POSSIBLE ASSISTANCE. AND FOR THOSE WHO MUST FACE A FINAL NEGATIVE DETERMINATION, WE ARE PREPARED TO OFFER COMPLETE COUNSELING AND GUIDANCE TO HELP EASE THE RESULTING BURDENS, AS WELL AS HEARTFELT SYMPATHY.

MR. CHAIRMAN, MEMBERS OF THIS SUBCOMMITTEE, MAY I AGAIN EXPRESS THE APPRECIATION OF THE DEPARTMENT OF DEFENSE FOR YOUR KIND INVITATION TO APPEAR HERE TODAY AND FOR YOUR STEADFAST WORK IN BEHALF OF OUR MEN AND THEIR FAMILIES. THE OPPORTUNITY TO DISCUSS THE CURRENT STATUS OF OUR RETURNED MEN AND THE ISSUE OF OUR MISSING IS TRULY WELCOMED.

PERSONNEL UNACCOUNTED FOR IN SOUTHEAST ASIA

(As of 26 May 1973)

<u>COUNTRY</u>	<u>ARMY</u>	<u>NAVY</u>	<u>USMC</u>	<u>USAF</u>	<u>TOTAL</u>
North Vietnam*	3	133	25	322	483
South Vietnam**	329	5	70	89	493
Laos	16	13	14	265	308
Total	348	151	109	676	1,284

* Includes five missing as a result of two aircraft losses in the vicinity of Hainan Island while in transit to the Tonkin Gulf

** Includes 20 missing in Cambodia as a result of U.S. air losses and operations in enemy sanctuary area along SVN/Cambodian border

STATEMENT BY DOCTOR ROGER E. SHIELDS
DEPUTY ASSISTANT SECRETARY OF DEFENSE
FOR INTERNATIONAL ECONOMIC AFFAIRS
BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

JANUARY 28, 1974

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

IT IS A PRIVILEGE FOR ME TO REPRESENT THE DEPARTMENT OF DEFENSE HERE TODAY. I PARTICULARLY WELCOME THIS SESSION WITH YOU AS IT REPRESENTS OUR FIRST OPPORTUNITY TO REPORT TO THIS COMMITTEE OUR EFFORTS MADE AND THE LIMITED PROGRESS ACHIEVED ON BEHALF OF OUR PRISONERS OF WAR AND MISSING AND DEAD IN THE VIETNAM CONFLICT.

ONE YEAR HAS PASSED SINCE THE SIGNING OF THE AGREEMENT ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM. MANY EVENTS HAVE TRANSPIRED SINCE THE SIGNING AND I WOULD LIKE TO REPORT ON SOME OF THESE AS THEY RELATE TO THE PRISONERS, THE MISSING AND THOSE LISTED AS DECEASED. I WOULD ALSO LIKE TO REVIEW SOME OF THE EFFORTS WHICH WE MADE DURING THE CONFLICT AND SINCE THE CEASEFIRE TO OBTAIN AN ACCOUNTING FOR OUR MEN.

THE MOST SIGNIFICANT EVENT CONCERNING OUR PRISONERS AND MISSING, OF COURSE, WAS THE RETURN OF 566 AMERICAN MILITARY PERSONNEL, 25 U.S. CIVILIANS AND 9 FOREIGN NATIONALS.

AS YOU KNOW, THESE INDIVIDUALS WERE TAKEN PRISONER WHILE SERVING IN SOUTHEAST ASIA. THEY WERE PRIMARILY MILITARY PERSONNEL OF THE PARTIES TO THE CONFLICT AND CIVILIANS SERVING IN AND OUT OF THE GOVERNMENT IN VARIOUS CAPACITIES.

THEIR PERIODS OF CAPTIVITY RANGED FROM ONLY A FEW MONTHS TO ALMOST NINE YEARS. DURING THIS TIME THEY FACED DEPRIVATIONS AND MADE SACRIFICES THAT FEW AMERICANS WILL EVER ENCOUNTER. HERE AT HOME, THE FAMILIES OF OUR CAPTURED AND MISSING ENDURED THE FRUSTRATION AND UNCERTAINTY OF WAITING FOR SOME WORD ABOUT THE CONDITION OR STATUS OF THEIR LOVED ONES. THESE FAMILIES AND THE GOVERNMENT WERE JOINED BY COUNTLESS AMERICANS IN A CONCERTED EFFORT TO OBTAIN A FULL AND ACCURATE ACCOUNTING OF ALL THE MEN, TOGETHER WITH HUMANE TREATMENT AND RELEASE OF THOSE HELD CAPTIVE.

THESE EFFORTS TOOK MANY FORMS. PRIVATE CITIZENS AND ORGANIZATIONS TRANSMITTED INNUMERABLE LETTERS AND PETITIONS TO COMMUNIST LEADERS, AND TRAVELED TO FOREIGN CAPITALS AROUND THE WORLD TO STIMULATE CONCERN AND INTEREST IN THIS HUMANITARIAN ISSUE. THE UNITED STATES GOVERNMENT URGED ALL NATIONS TO ASSIST IN THESE EFFORTS. THESE APPEALS WERE MADE THROUGH THE UNITED NATIONS, OTHER GOVERNMENTS, THE INTERNATIONAL COMMITTEE OF THE RED CROSS, AND MANY NATIONAL RED CROSS SOCIETIES. THE UNITED STATES APPEALED AGAIN AND AGAIN TO THE NORTH VIETNAMESE TO ABIDE BY THE GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR. THE CONGRESS HELD HEARINGS AND PASSED MANY RESOLUTIONS CONDEMNING THE ENEMY FOR THEIR FAILURE TO ABIDE BY THIS CONVENTION.

THIS GENUINE CONGRESSIONAL CONCERN HAS BEEN FURTHER MANIFESTED IN THE ENACTMENT OF SIGNIFICANT LEGISLATION AIMED SPECIFICALLY AT THE SOLUTION OF SOME OF THE PROBLEMS AND DIFFICULTIES FACED BY THE FAMILIES OF OUR MISSING AND CAPTURED MEN.

THESE EFFORTS CREATED WIDESPREAD PUBLIC INTEREST AND AROUSED WORLD OPINION OVER THE PLIGHT OF OUR MEN HELD CAPTIVE. THIS PUBLIC OUTCRY UNDOUBTEDLY REACHED THE ATTENTION OF NORTH VIETNAMESE LEADERS AND INFLUENCED THEIR ACTIONS ON THESE ISSUES. OUR RETURNING PRISONERS HAVE CONFIRMED OUR BELIEFS THAT THESE EFFORTS RESULTED IN IMPROVED TREATMENT FOR THEM.

THROUGHOUT THE CONFLICT IN SOUTHEAST ASIA THE UNITED STATES GOVERNMENT ATTEMPTED THROUGH A NUMBER OF AVENUES TO OBTAIN INFORMATION ABOUT ALL AMERICANS BELIEVED CAPTURED OR LISTED AS MISSING. FOR EXAMPLE, IN AUGUST 1965, THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) ADDRESSED AN APPEAL TO THE PRINCIPAL PARTIES TO THE VIETNAM CONFLICT, CALLING ON THEM TO ABIDE BY "THE HUMANITARIAN PROVISIONS OF THE GENEVA CONVENTION." IT REMINDED NORTH VIETNAM, THE GOVERNMENT OF SOUTH VIETNAM (GVN) AND THE UNITED STATES THAT ALL WERE PARTIES TO THE CONVENTIONS AND SENT A COPY OF THE APPEAL TO THE NATIONAL LIBERATION FRONT (NLF) ON THE GROUND THAT IT, TOO, WAS BOUND BY "THE UNDERTAKINGS SIGNED BY VIETNAM." THE ICRC APPEAL SPECIFIED FIVE POINTS: (1) THE ICRC SHOULD BE PERMITTED TO SERVE AS A NEUTRAL INTERMEDIARY; (2) PRISONERS OF WAR (PW) SHOULD BE TREATED HUMANELY; (3) PW LISTS SHOULD BE EXCHANGED; (4) ICRC DELEGATES SHOULD BE AUTHORIZED TO VISIT PW CAMPS; AND (5) CIVILIANS SHOULD BE SPARED THE ORDEAL OF CAPTIVITY.

IN SEPARATE LETTERS TO THE ICRC, NORTH VIETNAM AND THE NLF DECLARED THAT THE GENEVA CONVENTION DID NOT APPLY TO THE CONFLICT, AND IN PARTICULAR REFUSED TO ACCEPT THE ICRC AS A NEUTRAL INTERMEDIARY. ALTHOUGH ACKNOWLEDGING THAT IT HAD ACCEDED TO THE CONVENTION IN 1957, THE HANOI GOVERNMENT SAID IT

DID NOT APPLY TO THOSE CAPTURED BECAUSE THERE HAD BEEN NO DECLARATION OF WAR. THIS REASONING COMPLETELY IGNORED ARTICLE 2 OF THE CONVENTION WHICH STATES THAT THE CONVENTION APPLIES IN ALL CASES OF ARMED CONFLICT BETWEEN TWO OR MORE PARTIES TO THE CONVENTION.

IN MARKED CONTRAST, THE UNITED STATES AND THE GVN PLACED GREAT EMPHASIS ON COMPLIANCE WITH THE GENEVA CONVENTION WITH RESPECT TO THE TREATMENT OF PRISONERS OF WAR. THEY ARRANGED FOR REGULAR ICRC VISITS TO ALL PW CAMPS IN SOUTH VIETNAM FOR THE INSPECTION OF FACILITIES AND PRIVATE DISCUSSIONS WITH ENEMY PRISONERS OF WAR, PROVIDED LISTS OF NVN AND NLF PRISONERS OF WAR TO THE ICRC, AND PERMITTED A REGULAR FLOW OF MAIL TO AND FROM THE ENEMY PRISONERS OF WAR AS WELL AS VISITS WITH FAMILIES.

ON A FEW OCCASIONS DURING THE PERIOD OF ACTIVE U.S. MILITARY INVOLVEMENT IN THE CONFLICT, THE NORTH VIETNAMESE RELEASED A LIMITED AMOUNT OF INFORMATION ABOUT CAPTURED OR MISSING AMERICANS. YOU MAY RECALL THAT ONE SUCH RELEASE WAS MADE TO YOUR REPRESENTATIVE ON 23 DECEMBER 1970. THIS NORTH VIETNAMESE DOCUMENT CONTAINED THE NAMES OF 368 AMERICAN SERVICEMEN. NINE OF THESE WERE LISTED AS HAVING BEEN PREVIOUSLY RELEASED, 20 WERE LISTED AS HAVING DIED, AND THE REMAINING 339 WERE LISTED AS CAPTIVES. WHILE WE WELCOMED HANOI'S IMPLICIT ACCEPTANCE OF RESPONSIBILITY FOR THE HEALTH AND WELFARE OF THE 339 MEN, THE STATUS OF THESE MEN WAS PREVIOUSLY KNOWN. MOREOVER, THE INFORMATION IN THIS NORTH VIETNAMESE DOCUMENT WAS CONSIDERED INCOMPLETE BECAUSE THERE WAS NO MENTION OF THE PHYSICAL CONDITION OF THE MEN INDICATED AS CAPTIVES, AND

THERE WAS NO DESCRIPTION OF THE CAUSE OF DEATH OR DISPOSITION OF REMAINS OF THOSE LISTED AS DECEASED. FURTHER, THE LIST DID NOT INCLUDE THE NAMES OF ALL AMERICANS WE BELIEVED HAD BEEN CAPTURED AND ABOUT WHOM THEY CLEARLY SHOULD HAVE HAD KNOWLEDGE. AT NO TIME DURING THE CONFLICT WAS THIS KIND OF INFORMATION MADE AVAILABLE BY NORTH VIETNAM OR ITS ALLIES. ALTHOUGH THE NAMES OF A FEW MEN CAPTURED IN SOUTH VIETNAM WERE RELEASED LATE IN THE CONFLICT, NO SUCH INFORMATION WITH REGARD TO MEN CAPTURED IN LAOS WAS FORTHCOMING UNTIL THE SIGNING OF THE CEASEFIRE AGREEMENT.

AT THE TIME OF THE SIGNING OF THE AGREEMENT, THE UNITED STATES LISTED OVER 1900 AMERICANS AS CAPTURED OR MISSING. THE LISTS PROVIDED BY THE OTHER SIDE REFLECTED 594 U.S. AND THIRD COUNTRY NATIONALS AS PRISONERS. IN THE ENSUING 60 DAYS THREE MORE INDIVIDUALS WERE REPORTED AND RETURNED. IN ADDITION THREE U.S. PERSONNEL, TWO MILITARY AND ONE CIVILIAN, WERE RELEASED BY THE PEOPLES REPUBLIC OF CHINA, FOR A TOTAL OF 600 AMERICAN AND FOREIGN NATIONAL PRISONERS RELEASED. THE LISTS ALSO INCLUDED THE NAMES OF 70 PERSONS SAID TO HAVE DIED IN CAPTIVITY.

WHILE WE ARE PROFOUNDLY GRATEFUL FOR THE RETURN OF THESE MEN, OUR JOY AND SENSE OF ACCOMPLISHMENT ARE TEMPERED BY THE FACT THAT OVER 1300 OTHERS LISTED BY OUR GOVERNMENT AS MISSING AND CAPTURED, DID NOT RETURN. SOME FEARED THAT WITH THE RETURN OF THE PRISONERS, WE WOULD FORGET THOSE UNACCOUNTED FOR AND IGNORE THE PLIGHT OF THEIR FAMILIES. I CAN ASSURE YOU THIS HAS NOT HAPPENED, NOR WILL IT HAPPEN. THE DEPARTMENT OF DEFENSE WILL CONTINUE TO SEEK THE FULLEST POSSIBLE ACCOUNTING FOR THESE MEN AND PROVIDE

ALL POSSIBLE ASSISTANCE TO THEIR FAMILIES, JUST AS WE HAVE IN THE PAST. WE SHALL ALSO SEEK TO SEARCH FOR, AND RECOVER THE REMAINS OF, THOSE LISTED AS DECEASED BUT WHOSE REMAINS HAVE NOT BEEN RECOVERED.

MR. CHAIRMAN, HAVING PROVIDED THE BACKGROUND OF OUR EFFORTS TO ACHIEVE THESE GOALS, I WOULD NOW LIKE TO SAY SOMETHING ABOUT OUR EFFORTS DURING THIS PAST YEAR TO ACCOUNT FOR THE MISSING.

SINCE LAST JANUARY, WE HAVE UNDERTAKEN A NUMBER OF INITIATIVES AND MADE A NUMBER OF OVERTURES AIMED AT RESOLVING THE FATE OF THE MISSING AND AT RETURNING THE REMAINS OF THOSE MEN LISTED AS DECEASED. BEFORE PROCEEDING FURTHER, I WOULD LIKE TO ENTER INTO THE RECORD A CHRONOLOGICAL SUMMARY OF THESE FORMAL EFFORTS OF THE UNITED STATES SINCE THE SIGNING OF THE AGREEMENT.

OUR FIRST EFFORTS WERE MADE IN THE FOUR-PARTY JOINT MILITARY COMMISSION, WHICH WAS ESTABLISHED IN ACCORDANCE WITH ARTICLE 16 OF THE AGREEMENT. THIS COMMISSION WAS CHARGED WITH IMPLEMENTING CERTAIN SPECIFIC ARTICLES OF THE AGREEMENT, INCLUDING THOSE CONCERNED WITH THE RETURN OF MILITARY AND FOREIGN CIVILIAN PRISONERS OF WAR AND ACCOUNTING FOR THE MISSING IN ACTION. THE COMMISSION BEGAN ITS WORK ON JANUARY 31, 1973, AND WAS LIMITED TO 60 DAYS OF OPERATION.

THE U.S. DELEGATION MADE EVERY EFFORT TO IMPLEMENT AND ENFORCE THE PROVISIONS OF THE AGREEMENT. IT PLANNED AND EXECUTED THE WITHDRAWAL OF U.S. AND ALLIED FORCES AND NEGOTIATED THE RELEASE AND RETURN OF THE U.S. AND FOREIGN PRISONERS OF WAR. IT ALSO PLAYED A MAJOR ROLE IN NEGOTIATING THE

REPATRIATION OF THE MILITARY PRISONERS OF THE TWO SOUTH VIETNAMESE PARTIES. DURING THIS PERIOD 26,508 PROVISIONAL REVOLUTIONARY GOVERNMENT (PRG) AND 4,956 REPUBLIC OF VIETNAM (RVN) PRISONERS OF WAR WERE REPATRIATED, MOST OF WHOM WERE TRANSPORTED ON U.S. AIRCRAFT.

IN ADDITION TO THESE DUTIES, THE U.S. DELEGATION BEGAN EFFORTS ON 1 FEBRUARY 1973 TO OBTAIN AN ACCOUNTING OF THE MISSING AND THE REPATRIATION OF REMAINS OF THOSE LISTED AS DECEASED. THE COMMUNIST DELEGATIONS ACKNOWLEDGED THEIR RESPONSIBILITY FOR THIS ACTION BUT WERE NOT RECEPTIVE TO OUR OVERTURES FOR EARLY RESOLUTION OF THE PROBLEM.

OUR INITIATIVES IN THIS VEIN CONTINUED THROUGHOUT THE ENSUING 60 DAYS WITHOUT SUBSTANTIVE RESULTS.

WHEN THE JOINT MILITARY COMMISSION ENDED ITS ACTIVITIES THE FOUR-PARTY JOINT MILITARY TEAM (FPJMT) WAS FORMED. THIS TEAM, AS PRESCRIBED BY THE AGREEMENT, HAS THE SINGLE RESPONSIBILITY OF IMPLEMENTING ARTICLE 8(B) OF THE AGREEMENT. THIS ARTICLE DEALS STRICTLY WITH ACCOUNTING FOR THE MISSING AND THE RETURN OF THE REMAINS OF THOSE WHO HAVE DIED. THE TEXT OF ARTICLE 8(B) WAS INCLUDED IN TESTIMONY JUST GIVEN BY MR. SIEVERTS.

THE U.S. DELEGATION OF THE FPJMT CONSISTS OF 15 MILITARY AND 6 U.S. CIVILIAN PERSONNEL. IT BEGAN ITS WORK ON 2 APRIL 1973. OUR CHIEF OF DELEGATION, AN ARMY COLONEL, IS RESPONSIBLE THROUGH THE DEFENSE ATTACHE OFFICE IN SAIGON AND THE U.S. SUPPORT ACTIVITY GROUP IN THAILAND TO THE U.S. COMMANDER IN CHIEF, PACIFIC. OUR DELEGATION RECEIVES POLICY GUIDANCE AND INSTRUCTIONS FROM THE AMERICAN AMBASSADOR IN SAIGON.

THE FPJMT HAS BEEN MEETING APPROXIMATELY TWICE A WEEK SINCE 4 APRIL 1973. THE U.S. AND RVN DELEGATIONS HAVE MADE NUMEROUS INITIATIVES AND ATTEMPTS SINCE THAT TIME TO ACHIEVE COMPLIANCE BY THE OTHER SIDE WITH THE PROVISIONS OF ARTICLE 8(B). DESPITE THESE EFFORTS, THE DEMOCRATIC REPUBLIC OF VIETNAM (DRV) AND PRG HAVE NOT BEEN FORTHCOMING WITH ANY SIGNIFICANT INFORMATION ON THE MISSING AND DEAD.

BEGINNING WITH THE FIRST MEETING, WE PROPOSED IMMEDIATE DISCUSSION OF PLANS FOR THE RETURN OF THE REMAINS OF THOSE LISTED AS HAVING DIED IN CAPTIVITY AND FOR THE EXCHANGE OF INFORMATION ON THE MISSING. WE PURSUED FIRST THE ISSUE OF RETURN OF REMAINS OF THOSE LISTED AS DECEASED, BELIEVING THIS REPRESENTED AN ACTION THAT COULD BE COMPLETED WITHOUT DELAY AND ONE WHICH WOULD PROVIDE THE BASIS FOR FUTURE PROGRESS. INSTEAD OF RESPONDING TO OUR PURELY HUMANITARIAN REQUESTS, THE DRV AND PRG HAVE INSISTED ON DISCUSSING ISSUES THAT ARE NOT WITHIN THE PURVIEW OF THE FPJMT, AND HAVE EVEN ATTEMPTED TO RENEGOTIATE POINTS THAT HAD BEEN PREVIOUSLY AGREED UPON IN THE FOUR-PARTY JOINT MILITARY COMMISSION. ADDITIONALLY, FROM THE BEGINNING OF NEGOTIATIONS IN THAT FORUM, THEY HAVE INSISTED ON DISCUSSION AND LINKAGE OF OTHER UNRELATED PARTS OF THE BASIC AGREEMENT. FOR EXAMPLE, THEY HAVE REPEATEDLY ATTEMPTED TO LINK ARTICLE 8(A), WHICH GOVERNS THE RETURN OF MILITARY PRISONERS AND FOREIGN CIVILIAN PERSONNEL, AND ARTICLE 8(B) WHICH IS THE SOLE RESPONSIBILITY OF THE FPJMT TO ARTICLE 8(C) WHICH RELATES TO VIETNAMESE CIVILIAN DETAINEES. ARTICLE 8(C) ITSELF CLEARLY SPECIFIES THAT THE CIVILIAN DETAINEE ISSUE IS THE RESPONSIBILITY OF THE TWO SOUTH VIETNAMESE PARTIES.

DURING THIS SAME TIME FRAME, THE UNITED STATES PROVIDED THE OTHER DELEGATIONS WITH DETAILED LISTINGS OF ALL KNOWN U.S. AND THIRD COUNTRY NATIONALS MISSING IN INDOCHINA. THE DRV AND THE PRG ACCEPTED THESE LISTS AND ASSURED US THEY WOULD PROVIDE WHATEVER INFORMATION THEY POSSESSED.

TO FURTHER ASSIST WITH THE ACCOUNTING FOR THE MISSING, THE UNITED STATES, AT THE REQUEST OF THE DRV AND RVN, AGREED TO PROVIDE A WEEKLY LIAISON FLIGHT BETWEEN SAIGON AND HANOI. THIS MISSION, USING U.S. AIR FORCE C-130 AIRCRAFT, BEGAN OPERATING ON 7 APRIL 1973.

IN MID-APRIL AFTER DISCUSSING PLANS TO EXHUME AND REPATRIATE THE REMAINS OF THOSE LISTED AS HAVING DIED IN CAPTIVITY, THE DRV AND PRG ASSURED US OF THEIR COOPERATION ON THIS ISSUE, BUT EMPHASIZED THE NEED FOR AGREEMENT ON GENERAL MODALITIES BEFORE PROCEEDING TO SPECIFIC OPERATIONS. WHILE WE RECOGNIZED THE NEED FOR AGREEMENT ON BROAD PRINCIPLES GOVERNING ACTIVITIES TO ACCOUNT FOR THE MISSING, WE ALSO INSISTED THAT IMMEDIATE PROGRESS COULD BE MADE ON THE SIMPLE AND CLEAR-CUT ISSUE OF THE RETURN OF REMAINS OF THE DEAD.

THE DRV THEN PROPOSED THAT THE FPJMT VISIT THE CEMETERIES OF THE DEAD BEFORE REPATRIATION COULD BEGIN. THEY STATED THAT VISITS TO CEMETERIES IN NORTH VIETNAM COULD BE MADE IN MAY AND THAT DRV OFFICIALS WOULD BE PREPARED AT THAT TIME TO DISCUSS THE U.S. PLANS FOR THE REPATRIATION OF THE REMAINS.

THE FIRST VISIT WAS MADE ON 11 MAY TO THE VAN DIEN CEMETERY, APPROXIMATELY 15 MILES SOUTHWEST OF HANOI. THE TEAM WAS SHOWN THREE GRAVES ALLEGEDLY CONTAINING THE REMAINS OF U.S. SERVICEMEN. TWO WERE IDENTIFIED AS HAVING DIED

IN CAPTIVITY WHILE THE IDENTITY OF THE OTHER WAS UNKNOWN. (DESPITE PERSISTENT QUESTIONING, THE DRV REFUSED TO IDENTIFY THIS LAST INDIVIDUAL. THEY WOULD ONLY STATE THAT HE WAS A CREW MEMBER AND WAS NOT CARRYING ANY IDENTIFICATION WHEN HE WAS FOUND.) THE TEAM POSED A NUMBER OF QUESTIONS RELATING TO THE RECOVERY OF THE REMAINS. THE DRV OFFICIALS WOULD NOT RESPOND DIRECTLY TO THE QUESTIONS, BUT INSTEAD CITED THE NEED FOR DISCUSSIONS AND COMPLETE AGREEMENT ON PROCEDURES AND MODALITIES BY THE FPJMT IN SAIGON. THE TEAM THEN RETURNED TO SAIGON.

ONE WEEK LATER, ON 18 MAY, THE DRV AGAIN HOSTED A VISIT TO THE CEMETERIES IN NORTH VIETNAM. THIS VISIT WAS TO THE BA HUYEN CEMETERY, SOME 30 MILES NORTHEAST OF HANOI. THIS TIME THE TEAM WAS SHOWN 22 GRAVES. TWENTY-ONE (21) ALLEGEDLY CONTAINED THE REMAINS OF U.S. SERVICEMEN LISTED AS HAVING DIED IN CAPTIVITY, WHILE THE OTHER WAS REPORTED TO BE THAT OF A THAI NATIONAL. THE DRV DELEGATION HAD AGAIN INDICATED THAT LOCAL DRV OFFICIALS WOULD BE PREPARED TO DISCUSS THE RETURN OF THE REMAINS. AGAIN THIS PROVED NOT TO BE THE CASE. INSTEAD, THEY FOLLOWED THE SAME LINE AS EXPERIENCED ON 11 MAY. THEY DID NOT RESPOND TO DIRECT QUESTIONS AND THE U.S. PROPOSAL FOR THE RETURN OF REMAINS. INSTEAD, THEY REFERRED ALL DISCUSSION TO THE FPJMT IN SAIGON.

THIS VISIT REPRESENTS OUR LAST SUBSTANTIVE PROGRESS ON THE RECOVERY OF REMAINS FROM NORTH VIETNAM. SINCE THAT TIME THE U.S. DELEGATION HAS MADE REPEATED REQUESTS TO RECOVER THESE REMAINS AND HAS OFFERED AGAIN AND AGAIN TO DISCUSS ANY ASPECT OF THEIR REPATRIATION. THE DRV REPLY HAS ALWAYS

BEEN THE SAME: THERE MUST BE COMPLETE AGREEMENT ON ALL ASPECTS OF ARTICLE 8(B) BEFORE PROCEEDING WITH ANY SPECIFIC OPERATIONS.

AS I PREVIOUSLY STATED, WE HAVE PROVIDED LISTS OF ALL KNOWN U.S. AND THIRD COUNTRY NATIONALS UNACCOUNTED FOR IN INDOCHINA. CONCURRENTLY WITH THE PURSUIT OF THE ISSUE OF RETURN OF REMAINS, WE HAVE REPEATEDLY ASKED FOR INFORMATION ON THE MISSING. THESE EFFORTS HAVE BEEN FRUSTRATED BY THAT NOW FAMILIAR THEME: THE NECESSITY FOR PRIOR AGREEMENT ON ALL PLANS AND ACTIVITIES TO ACCOUNT FOR THE MISSING. TO CITE A SPECIFIC EXAMPLE, WE HAVE MADE SEVERAL SPECIFIC INQUIRIES CONCERNING CHAI CHARN HARNNAVEE AND NAPADOM WANG GHOM, TWO THAI NATIONALS WHOM OUR RETURNEES REPORTED WERE CAPTIVES IN HANOI AS LATE AS MARCH 28, 1973. THE DRV RESPONSE HAS BEEN THAT ALL U.S. PRISONERS CAPTURED IN THE DRV HAVE BEEN RELEASED.

IN EVADING THEIR LEGAL AND HUMANITARIAN OBLIGATIONS, THE DRV AND PRG HAVE USED A MULTITUDE OF SCHEMES AND TACTICS. THEY INTRODUCED TO THE FPJHT A PROPOSED AGREEMENT ON MODALITIES FOR THE IMPLEMENTATION OF ARTICLE 8(B). THE PROPOSED AGREEMENT CONTAINS MANY CONTENTIOUS AND EXTRANEEOUS POINTS WELL BEYOND THE SCOPE, SPIRIT AND INTENT OF ARTICLE 8(B). ONE OF THE MOST OBJECTIONABLE OF THESE IS THE CONSTRUCTION OF CEMETERIES, MONUMENTS AND WAR MEMORIALS FOR THE DEAD IN THE TERRITORY OF THE OTHER PARTIES. THE DRV AND PRG HAVE INSISTED IT IS NECESSARY TO BUILD THESE CEMETERIES, MONUMENTS AND MEMORIALS BECAUSE THEY MIGHT NOT REPATRIATE ALL OF THEIR DEAD FROM THE TERRITORY OF OTHER PARTIES. THESE MEASURES ARE FAR BEYOND THE SCOPE OF ARTICLE 8(B) AND REPRESENT CYNICAL ATTEMPTS BY THE DRV AND PRG TO EXPLOIT FURTHER THE GENUINE AND HUMANITARIAN CONCERN OF THE U. S. OF ACCOUNTING FOR

THE MISSING TO FURTHER THEIR OWN MILITARY AND POLITICAL GOALS. ON ITS PART, THE GOVERNMENT OF SOUTH VIETNAM HAS STATED THAT IT WILL ASSIST WITH THE REPATRIATION OF ALL DRV AND PRG DEAD TO THE TERRITORY CONTROLLED BY THE LATTER. IT HAS ALSO STATED IT WOULD MAINTAIN THE GRAVES OF THOSE NOT REPATRIATED AT THEIR PRESENT LOCATION OR IN A NATIONAL CEMETERY.

OUR SIDE IS FULLY AWARE OF THE DRV-PRG MOTIVES ON THIS ISSUE. THEY EMPLOYED SIMILAR TACTICS FOLLOWING THE 1954 GENEVA AGREEMENTS, USING THEM FOR POLITICAL AND MILITARY PURPOSES IN SOUTH VIETNAM.

STILL ANOTHER ISSUE IRRELEVANT TO THE WORK OF ACCOUNTING FOR THE MISSING IS THE DRV AND PRG INSISTENCE THAT THE VIETNAMESE NEXT OF KIN BE ALLOWED TO VISIT GRAVES PRIOR TO OR IN LIEU OF REPATRIATION. THIS IS ALSO BEYOND THE SPIRIT AND INTENT OF ARTICLE 8(B). THIS IS A MATTER TO BE SETTLED BY THE TWO SOUTH VIETNAMESE PARTIES IN THE DISCUSSIONS OF THE TWO PARTY JOINT MILITARY COMMISSION.

I REPEAT AGAIN THAT PROPOSALS SUCH AS THESE ARE BEYOND THE SPIRIT AND INTENT OF ARTICLE 8(B) AND ARE MOTIVATED BY POLITICAL PURPOSES. THEY SERVE NOT TO RELIEVE THE SUFFERING AND UNCERTAINTY OF THE FAMILIES OF THE MISSING, BUT ONLY TO FURTHER THE POLITICAL GOALS OF THE DRV AND PRG. DESPITE THEIR MUCH ACCLAIMED HUMANITARIAN POLICIES, IT IS CLEAR THAT THEY ARE CONTINUING TO USE THE SUFFERING OF THE FAMILIES OF THE MISSING TO ACHIEVE POLITICAL GAINS. FOR OUR PART, WE HAVE EXPRESSED THE VIEW THAT WE SHOULD EXCHANGE INFORMATION ON THE MISSING TO RELIEVE THE SUFFERING AND ANXIETY OF THESE FAMILIES.

INSTEAD OF FACILITATING AN ACCOUNTING FOR THE MISSING, THE PLENARY SESSIONS OF THE FPJMT HAVE BECOME A FORUM FOR PROPAGANDA SPEECHES, BOYCOTTS, WALKOUTS AND GENERAL STALLING TACTICS BY THE OTHER SIDE. THE DRV AND PRG HAVE DEVOTED MANY HOURS TO THE DETAILING OF ALLEGED VIOLATIONS OF THE AGREEMENT AND CEASEFIRE BY THE U.S. AND SOUTH VIETNAMESE. OUR EFFORTS TO REDIRECT THE DISCUSSIONS TO SUBSTANTIVE ISSUES HAVE MET WITH FRUSTRATION AND FAILURE. SINCE EARLY IN NOVEMBER, THERE HAS NOT EVEN BEEN AGREEMENT ON THE MEETING AGENDA. NEARLY ALL SESSIONS IN THE PAST SIX MONTHS HAVE BEEN CHARACTERIZED BY STALE POLEMICS AND THEATRICALS ON THE PART OF THE OTHER SIDE.

ON 2 OCTOBER, FOR EXAMPLE, IN THEIR RESPONSE TO THE PROPOSED AGENDA, THE PRG READ A PREPARED STATEMENT ALLEGING CEASEFIRE VIOLATIONS BY THE U.S. AND RVN AND WALKED OUT OF THE MEETING. THIS ACT WAS REPEATED ON 9 OCTOBER AND AGAIN ON 15 NOVEMBER. ON 8 AND 27 NOVEMBER THEY BOYCOTTED THE ENTIRE SESSION IN PROTEST OF ALLEGED CEASEFIRE VIOLATIONS.

ON 18 OCTOBER, TO CITE ANOTHER EXAMPLE, THE U.S. PROPOSED DISCUSSION OF THE EXCHANGE OF INFORMATION ON THE MISSING AND DECEASED AND THE FPJMT RESPONSIBILITIES FOR THIRD COUNTRY NATIONALS. THE PRG RESPONSE WAS THE READING OF A 25 MINUTE STATEMENT ON ALLEGED CEASEFIRE VIOLATIONS. THE U.S. DELEGATE IGNORED THESE CHARGES BY RESTATING THE PROPOSED AGENDA. THIS WAS FOLLOWED BY A 30 MINUTE HARANGUE BY THE PRG REITERATING THEIR EARLIER STATEMENT.

IN SUM, THE U.S. AND SOUTH VIETNAMESE DELEGATIONS HAVE MADE MANY SUBSTANTIVE PROPOSALS DURING THE FPJMT MEETINGS OF THE PAST TEN MONTHS THAT WOULD ADVANCE THE WORK OF RESOLVING THE STATUS OF THE MISSING. IN EVERY CASE, THESE EFFORTS HAVE BEEN REBUFFED BY THE DRV AND PRG. THEY PREFER INSTEAD TO TIE UP THE SESSIONS WITH DISCUSSIONS OF NON-GERMANE AND POLITICAL ISSUES.

THIS LACK OF PROGRESS HAS NOT GONE UNCHALLENGED. THE U.S. DELEGATION HAS MADE REPEATED PROTESTS TO THE DRV AND PRG, ALL TO NO AVAIL.

IN A DETAILED STATEMENT DURING THE FPJMT MEETING ON 27 SEPTEMBER, THE U.S. DELEGATION IN SAIGON SYSTEMATICALLY REVIEWED THE U.S. EFFORTS TO OBTAIN IMPLEMENTATION OF ARTICLE 8(B) BY THE DRV AND PRG, AND CITED THE LACK OF COOPERATION AND HUMANITARIAN SPIRIT DEMONSTRATED BY THE OTHER SIDE. THIS STATEMENT, AS WITH OUR PREVIOUS EFFORTS, WAS REJECTED.

DESPITE THIS COMPLETE LACK OF COOPERATION FROM THE DRV AND PRG, WE HAVE MADE SOME PROGRESS IN THE RESOLUTION OF MISSING CASES AS A RESULT OF SEARCH OPERATIONS BY TEAMS OF THE JOINT CASUALTY RESOLUTION CENTER (JCRC). THIS ORGANIZATION IS A JOINT TASK FORCE LOCATED AT NAKHON PHANOM ROYAL THAI AIR FORCE BASE IN NORTHEAST THAILAND. WITHIN THE LIMITS IMPOSED UPON IT, THE JCRC SUPERVISES AND CONDUCTS SEARCH OPERATIONS DESIGNED TO ASSIST IN RESOLVING THE FATE OF THE MISSING AND TO RECOVER AND IDENTIFY REMAINS WHERE POSSIBLE. THE ENTIRE OPERATION IS PEACEFUL, OPEN AND HUMANITARIAN IN NATURE.

OUR TEAMS HAVE BEEN OPERATING THUS FAR IN SOUTH VIETNAM WITH THE APPROVAL OF THAT GOVERNMENT. REQUESTS FOR OUR TEAMS TO CONDUCT SEARCHES ARE FORMALLY CIRCULATED THROUGH THE FPJMT TO OBTAIN THE APPROVAL OF THE PARTY CONTROLLING THE TERRITORY. ALL DELEGATIONS ARE FULLY INFORMED OF OUR INTENDED SEARCHES AND ARE PROVIDED DETAILED SCHEDULES OF THESE PROGRAMMED OPERATIONS. FURTHER, ALL DELEGATIONS ARE INVITED TO ACCOMPANY THE AMERICAN TEAMS TO OBSERVE EACH OPERATION. UP TO NOW ONLY THE RVN HAS ACCEPTED OUR INVITATION TO OBSERVE THESE OPERATIONS.

THE JCRC HAS CONDUCTED A TOTAL OF 15 OF THESE OPERATIONS SINCE MAY OF LAST YEAR. ALL HAVE BEEN CONDUCTED IN RVN-CONTROLLED TERRITORY. WE HAVE MADE REQUESTS TO ENTER COMMUNIST TERRITORY TO CONDUCT SEARCHES BUT SO FAR, PERMISSION TO DO SO HAS BEEN DENIED.

THE LAST OPERATION WAS CONDUCTED ON 15 DECEMBER. IN KEEPING WITH ESTABLISHED PROCEDURES, THE U.S. DELEGATION REQUESTED PERMISSION FROM THE RVN TO CONDUCT A SEARCH OF A KNOWN CRASH SITE NEAR SAIGON. ALL DELEGATIONS WERE INFORMED OF THIS REQUEST AND THE RVN GRANTED PERMISSION FOR THE TEAM TO ENTER THE AREA. ON 13 DECEMBER THE TEAMS, WEARING THE TRADITIONAL ORANGE FPJMT INSIGNIA, CONDUCTED AN INITIAL SURVEY OF THE SITE. ON 14 DECEMBER, IN KEEPING WITH NORMAL POLICY, MEMBERS OF THE NEWS MEDIA VISITED THE SITE AND OBSERVED OPERATIONS. ON 15 DECEMBER THE SEARCH TEAM RETURNED TO THE SITE TO CONTINUE THEIR WORK. IMMEDIATELY UPON LANDING, THEY WERE ATTACKED BY A HOSTILE FORCE OF UNDETERMINED NUMBERS. IN KEEPING WITH ESTABLISHED POLICY, THE AMERICAN TEAM LEADER RAISED HIS HANDS IN THE

INTERNATIONAL SIGN OF SURRENDER AND SHOUTED IN VIETNAMESE THAT THEY WERE UNARMED. HE WAS KILLED ALMOST IMMEDIATELY BY THE ATTACKING FORCE. ONE OF THE RVN ACCOMPANYING HIM WAS ALSO KILLED. IN ADDITION, FOUR AMERICANS AND THREE VIETNAMESE WERE WOUNDED AND ONE HELICOPTER WAS DESTROYED. MR. CHAIRMAN, THIS WAS NOTHING MORE THAN A COLDBLOODED, CALCULATED ATTACK ON AN UNARMED GROUP WHICH WAS ENGAGED IN A HUMANITARIAN MISSION. THE DRV AND PRG WERE AWARE OF THE PURPOSE OF THIS MISSION. THEY WERE INFORMED OF ALL OF THE DETAILS AND HAD BEEN EXTENDED THE TRADITIONAL INVITATION TO ACCOMPANY THE TEAM.

THE UNITED STATES HAS VIGOROUSLY PROTESTED THIS COLDBLOODED MURDER. BOTH THE U.S. CHIEF OF DELEGATION AND THE RVN CHIEF OF DELEGATION STRONGLY CONDEMNED THIS ATTACK IN THE PLENARY SESSION OF 18 DECEMBER. FOLLOWING THE DELIVERY OF THEIR PROTEST, BOTH DELEGATIONS WALKED OUT OF THE MEETING, FOR THE FIRST TIME IN THESE NEGOTIATIONS.

IT IS INTERESTING TO NOTE THE PRG REFUSED TO ATTEND THE NEXT SCHEDULED SESSION. THEY STATED THEY WERE DISPLEASED WITH THE ATTITUDE AND ACTIONS OF THE U.S. DELEGATION. THEY HAVE DENIED RESPONSIBILITY FOR THE INCIDENT AND HAVE ATTEMPTED TO DIVERT ATTENTION BY STATING THAT THE SEARCH WAS ILLEGAL AND WAS NOTHING MORE THAN A RECONNAISSANCE MISSION FOR MILITARY PURPOSES. MR. CHAIRMAN, NOTHING COULD BE FURTHER FROM THE TRUTH. AS I PREVIOUSLY STATED, THE MISSION OF SEARCHING FOR THE MISSING AND DEAD BY THE JCRC IS OPEN, PEACEFUL AND STRICTLY HUMANITARIAN.

PRIOR TO AND FOLLOWING THE ATTACK ON THE TEAM THERE WERE A NUMBER OF MEDIA REPORTS THAT THE JCRC WOULD SOON CEASE OPERATIONS AND GIVE UP THE SEARCH FOR THE MISSING. I WANT TO ASSURE YOU WE HAVE NO INTENTIONS OF REDUCING OUR EFFORTS IN THIS WORK. WE HAVE NO PLANS TO DILUTE THE MISSION OF THE JCRC, OR TO REDUCE ITS CAPABILITY TO PERFORM THIS TASK. WE ARE, THOUGH, CURRENTLY LIMITED IN THE NUMBER OF SITES WE CAN INSPECT. AS I STATED EARLIER, THE DRV AND PRG HAVE NOT ALLOWED OUR TEAMS TO ENTER AREAS THEY CONTROL. IT IS IN THESE AREAS THAT SOME 95 PERCENT OF OUR KNOWN CRASH OR GRAVE SITES ARE LOCATED, AND WE HOPE THE DRV AND PRG WILL SEE FIT TO ALLOW SEARCHES IN THESE AREAS IN THE FUTURE.

WHILE THE NUMBER OF KNOWN SITES IN SOUTH VIETNAMESE TERRITORY ARE LIMITED, WE ARE RECEIVING NEW INFORMATION ON POSSIBLE CRASH AND GRAVE SITES ON A REGULAR BASIS AS A RESULT OF A PUBLICITY CAMPAIGN AIMED AT ENLISTING THE AID OF THE LOCAL INHABITANTS OF AREAS IN WHICH OUR MEN BECAME MISSING. ALL OF THIS INFORMATION IS BEING CAREFULLY ANALYZED FOR ITS VALIDITY AND USEFULNESS IN PLANNING FUTURE SEARCHES.

I REALIZE THIS STATEMENT HAS NOT REPORTED THE SUCCESSES FOR WHICH WE ALL HAD HOPED, AND HAS NOT PRESENTED A PARTICULARLY BRIGHT PICTURE FOR THE FUTURE. WE HAVE EXPLORED MANY AVENUES AND INITIATIVES ON BEHALF OF OUR MEN WHO DID NOT RETURN FROM SOUTHEAST ASIA AND WE HAVE MET WITH FRUSTRATION AND INDIFFERENCE ON THE PART OF THE COMMUNIST DELEGATIONS. SINCE THE SIGNING OF THE AGREEMENT LAST YEAR THE OTHER SIDE HAS YET TO PROVIDE, THROUGH THE FPJMT, INFORMATION ABOUT A SINGLE MISSING AMERICAN. EVEN THOUGH THE NORTH VIETNAMESE HAVE REFUSED TO IMPLEMENT THEIR PREVIOUSLY AGREED UPON ARRANGEMENTS FOR THE RETURN OF THE REMAINS OF OUR MEN WHOM THEY HAVE LISTED AS DECEASED, WE ARE DETERMINED TO CONTINUE OUR EFFORTS ON BEHALF OF THESE MEN AND THEIR FAMILIES.

I MENTIONED IN THE BEGINNING OF MY TESTIMONY THE GREAT EFFORTS WHICH WERE MADE IN BEHALF OF OUR PRISONERS AND MISSING BY THE AMERICAN PUBLIC, PRIVATE ORGANIZATIONS, AND THE AMERICAN GOVERNMENT, INCLUDING THE CONGRESS. THESE UNIFIED EFFORTS WERE HELPFUL THEN AND WE WELCOME THE CONTINUING INTEREST IN THIS HUMANITARIAN CAUSE EVIDENCED BY THIS HEARING TODAY. THOSE WITH WHOM WE NEGOTIATE IN INDOCHINA HAVE SHOWN THAT THEY ARE PARTICULARLY SENSITIVE TO THE EFFORTS AND STATEMENTS OF THE MEMBERS OF CONGRESS, AND I AM SURE THAT THEY WILL BE ATTENTIVE TO THE INTEREST IN THE PLIGHT OF OUR MISSING AND THEIR FAMILIES SHOWN BY THIS COMMITTEE.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MAY I AGAIN EXPRESS THE APPRECIATION OF THE DEPARTMENT OF DEFENSE FOR THE OPPORTUNITY OF APPEARING HERE TODAY AND FOR YOUR EFFORTS IN BEHALF OF OUR MEN AND THEIR FAMILIES.

Chronology of US Efforts Through the Saigon Negotiations Toward
Obtaining Information About Americans and Third Country
Nationals Unaccounted for in Southeast Asia

1973

1 February	The US Delegation (USDEL) requested information on those US personnel not listed on the Paris lists. DRV and PRG did not respond.	24 April	The USDEL sent the DRV DEL a letter containing specific information concerning two Thai Nationals about whom the DRV should have knowledge.
9 February	USDEL again requested information on US missing in action (MIA).	16 May	The USDEL furnished other delegations a list of 14 missing Korean Nationals.
28 February	USDEL distributed to all delegations a proposal outlining general procedures to account for the missing and recover the dead.	21 May	The USDEL noted that four months had elapsed since the ceasefire without any progress having been made toward resolution of missing cases.
5 March	USDEL readressed the 28 February proposal. DRV-PRG stated they were studying the proposal.	22 May	The USDEL requested DRV and PRG provide US with all information about US missing.
9 March	USDEL requested all available information on all US personnel missing in action to include those lost immediately prior to the ceasefire and not included on the Paris lists. USDEL also requested all parties to comment on 28 February proposal.	29 May	The USDEL reiterated the request that all available information about US missing be provided.
18 March	USDEL requested all parties designate representatives to form the FPJMT. DRV-PRG did not respond.	31 May	The USDEL furnished other delegations with a list of 8 Australian Nationals missing.
25 March	USDEL proposed discussion of the formation and activities of the FPJMT. The PRG refused to discuss the issue.	7 June	The DRV DEL indicated the PRG had information about crash and burial sites along the DMZ and in Southern North Vietnam. The DRV supported the PRG position that the PRG representatives needed to travel to Hanoi to coordinate the release of this information. The USDEL sent letters to DRV and PRG citing delay in receiving information about missing US persons on lists already provided, and offered US support and additional data to expedite the search for this information.
26 March	First discussions on formation of the FPJMT.	10 July	The USDEL distributed copies of the pamphlet "Missing" published by the American Committee to Free Journalists Held in Southeast Asia, and discussed the responsibility of the parties to provide information concerning the missing journalists.
27 March	All delegations generally agreed on FPJMT organization and operations.	24 July	The USDEL proposed that "concrete action" of exchange of information about missing persons be a part of the FPJMT operating schedule.
28 March	DRV requested US provide a weekly liaison flight between Saigon and Hanoi pending RVN-DRV agreement on reciprocal flight arrangements. The US agreed on 30 March.	26 July	The USDEL proposed immediate exchange of information about missing persons.
4 April	First formal meeting of the FPJMT. The USDEL proposed early discussion of procedures to exchange information about the missing. A general agreement was reached that the concerned parties could deal directly with one another in exchanging information about missing personnel.	21 August	The Chief USDEL delivered a prepared statement during the meeting noting the refusal of the DRV and PRG to provide information on US and TCN missing personnel.
17 April	The USDEL furnished other delegations with a list of US and Third Country Nationals (TCN's) missing.		

26 September The USDEL delivered three memoranda to the Chief, PRG delegation requesting information about missing Australian and Korean TCN's and the status of prior US request to conduct crash site inspections in PRG controlled territory.

27 September The Chief, USDEL delivered a statement during the meeting cataloging US efforts on behalf of other countries in seeking information about their missing and deceased personnel and repatriation of remains, and requesting DRV and PRG assistance.

5 October The USDEL delivered a memorandum to the Chief, PRG DEL requesting information about 3 missing Philippine Nationals.

10 October The USDEL delivered a memorandum to the Chief, PRG DEL requesting information about 4 missing Federal Republic of Germany Nationals, and a memorandum to the Chief, DRV requesting information about 2 missing Thai Nationals.

27 October The USDEL delivered a memorandum to the Chief, PRG DEL requesting information about 8 missing Japanese Nationals.

30 October USDEL reiterated earlier statements and position regarding exchange of information on TCN's. DRV-PRG insist the FPJMT is only responsible for those citizens of the countries allied with US-RVN in the conflict. US-RVN maintain FPJMT has moral responsibility for all TCN's.

15 November USDEL proposed discussions of FPJMT responsibilities for all military personnel and scope of mutual assistance to implement Article 8(b).

11 December USDEL reviewed US-RVN initiatives during recent months emphasizing RVN cooperation in accounting of PRG missing and dead.

15 January US and RVN DELs reviewed efforts to implement Article 8(b) and requested the cooperation of all delegations.

Chronology of US Efforts Through the Saigon Negotiations Toward Obtaining Information About Americans and Third Country Nationals Who Are Listed as Deceased and Completing Arrangements For Repatriation of Remains

1973

1 February US Delegation (USDel) requested information on all US personnel known by the DRV-PRG to have died in captivity or otherwise to include circumstances, death certificates, etc.

9 February USDel again requested information on US dead in DRV-PRG territory and the return of remains. DRV-PRG stated remains would be returned separately from PW.

9 March USDel requested the return of remains of those listed as dead on Paris lists.

10 March USDel restated 9 March request. DRV stated no remains would be returned until all PW's were released.

4 April During the first formal meeting of the FPJMT, the USDel proposed early discussion of repatriation of remains of deceased persons.

7 April The USDel stated its readiness to make arrangements for the return of persons who had died in the captivity of the other side.

10 April The USDel outlined the US concept of general procedures to repatriate the remains of Americans who were listed as having died in captivity. The DRV mentioned for the first time the need for procedures to visit cemeteries.

11 April The USDel sent two letters each to the DRV and PRG Delegations. The first letter enclosed the lists of persons the other side had listed as deceased and requested grave location and date for the repatriation of the remains. The second letter outlined the US concept of procedures for the repatriation of the remains and requested comments by 17 April 1973.

13 April The DRV and PRG both stated they were studying the US 11 April letters. Both the DRV and PRG emphasized the need for agreement on general modalities before proceeding to specific operations.

24 April The DRVDel suggested the FPJMT visit grave locations in NVN sometime after 1 May. US Delegation requested discussion of US 11 April letter proposing procedures for the repatriation of remains.

26 April The USDel presented US concept of the FPJMT visit to grave locations in NVN.

30 April The PRG and DRV again stated the need for general agreement on modalities before proceeding for repatriation of remains.

3 May The USDel outlined US concept for FPJMT visit to grave locations in NVN and listed composition of US team.

8 May Agreement reached and final arrangements made for FPJMT visit to grave locations in NVN, to be accomplished 11 May 1973. The US team composition for the visit totaled 8 delegates and specialists.

11 May First FPJMT visit to grave locations in NVN was conducted. US representatives attempted to obtain answers from Hanoi officials to pertinent questions. The DRV referred to the need for a formal FPJMT meeting in Saigon to reach agreement on details of procedures for the repatriation of remains from NVN. US representatives outlined US concept for these procedures. A total of 22 graves, located at Ba Huyen Cemetery, were shown to the FPJMT representatives.

29 May The USDel proposed that the FPJMT operating schedule for June include FPJMT visits to grave locations in SVN.

6 June The USDel sent a letter to the DRV Delegation proposing a specific operating schedule for the repatriation on 22 June from Ba Huyen Cemetery of the remains of the 22 persons that the DRV had indicated are interred at that location.

16 June The USDel sent a letter to the PRG Delegation citing the long delay in obtaining information from the PRG on deceased persons, offering US support to transport PRG Delegates to visit local officials to gather information, and requesting locations of graves in PRG controlled territory.

20 June The PRG announced their intention to invite the FPJMT, in the near future, to visit graves of persons who died in their captivity.

3 July The USDel asked the DRV to explain the delay in the repatriation of remains from NVN.

5 July The USDel requested the DRV to establish a date for the repatriation of remains from NVN.

12 July During meeting, the USDel proposed that the repatriation of remains from NVN be an agenda item. The proposal was rejected by the DRVDel.

16 July The USDel sent a memorandum to the DRVDel proposing an operating schedule for the repatriation of remains interred in Van Dien Cemetery (NVN).

19 July During meeting, the USDel proposed that the repatriation of remains be an agenda item. The DRV reemphasized the need for complete agreement on modalities.

24 July During meeting, the USDel proposed that the FPJMT schedule the repatriation of remains as a part of the FPJMT "concrete actions."

26 July During meeting, the USDel proposed development of an operating schedule including the repatriation of remains from DRV and PRG territory.

31 July During meeting, the USDel proposed operating schedule for August including repatriation of the remains of deceased US persons from NVN on 10 and 24 August, and from PRG territory on 27 August.

2 August During meeting, the USDel proposed immediate discussion of schedule of FPJMT activities including repatriation of US remains from NVN.

7 August During meeting, the USDel, noting the extended stay in Hanoi of the Deputy Chief, DRVDel, requested establishment of operating schedule for the repatriation of US remains from NVN.

14 August During meeting, the USDel questioned the PRG concerning the PRG 20 June statement that the PRG had information about US servicemen buried in PRG territory.

15 August The DRVDel sent non-substantive memorandum to the US Delegation, which was purported to be a response to the US letter of 6 June and the US memorandum of 16 July.

21 August During meeting, the Chief, USDel delivered a prepared statement which noted the refusal of the DRV and PRG to cooperate in the repatriation of the remains of US deceased personnel.

26 September The USDeI delivered two memoranda to the Chief, PRG Delegation. One requested information about missing Korean Nationals and repatriation of the remains of deceased Korean Nationals; the other a similar request concerning Australian Nationals.

27 September During meeting, the Chief, USDeI delivered a statement cataloging US efforts on behalf of other countries in seeking information about missing TCN's and repatriation of remains of deceased TCN's, and requesting DRV and PRG assistance.

5 October The USDeI delivered two memoranda to the Chief, PRG. One memorandum requested the location of the graves of deceased US persons and in general provided a follow-up of prior US requests for visits to grave sites and repatriation of remains. The other memorandum concerned Philippine Nationals; requesting information about two who are missing and requesting repatriation of the remains of another who was listed as deceased.

10 October The USDeI delivered a memorandum to the Chief, PRGDeI concerning four Federal Republic of Germany Nationals, requesting repatriation of the remains of three others who were listed as deceased.

10 December USDeI proposed DIC remains in DRV be returned 6-12 Jan 74.

11 December USDeI renewed requests for return of DIC remains and proposed discussion of a schedule for repatriation. DRV-PRG refused to discuss issue.



INTERNATIONAL
SECURITY AFFAIRS

ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

31 MAR 1975

In reply refer to:
1-1477/75

Honorable Melvin Price
Chairman, Committee on Armed Services
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is the response to your letter of February 4, 1975 to Secretary Schlesinger in which you requested a comprehensive report on all aspects of the MIA problem. The enclosed report contains the salient issues and related problems associated with an accounting for our missing men and the return of the remains of those who are listed as deceased but whose bodies have not been recovered.

I hope this report will prove beneficial to your assessment of the overall issue. We will be happy to provide whatever amplification of any particular facet you may require.

Sincerely,

ROGER E. SHIELDS
Deputy Assistant Secretary

Enclosure
as



SUMMARY OF PERTINENT INFORMATION
REGARDING U.S. SERVICEMEN MISSING IN
SOUTHEAST ASIA

Throughout the conflict in Southeast Asia the United States Government attempted through a number of avenues to obtain information about all Americans believed captured or listed as missing. We repeatedly called upon the North Vietnamese to abide by the Geneva Convention Relative to the Treatment of Prisoners of War. Appeals were made through the United Nations, other governments, the International Committee of the Red Cross, and many national Red Cross societies. In the Congress, hearings were held and many resolutions were passed which condemned the enemy for their failure to adhere to the requirements of the Geneva Convention. From the beginning of our negotiations in Paris, we continually pressed the other side to abandon their inhumane attitude on this matter and to provide official lists of all men in their captivity and information about others still missing about whom they clearly should have knowledge.

Here at home, the families of our captured and missing endured the frustration and uncertainty of waiting for some word about the condition or status of their loved ones. Many relatives of our missing men travelled extensively at their own expense, seeking assistance from other governments and attempting to glean information through short and usually fruitless audiences with DRV and PRG delegates in Paris. These families and the Government were joined by countless Americans in a concerted effort to obtain a full and accurate accounting of all the men, together with humane treatment and release of those held captive. Private citizens and organizations transmitted innumerable letters and petitions to communist leaders, and travelled to foreign capitals around the world to stimulate concern and interest in this humanitarian issue. The United States Government urged all nations to assist in these efforts. Our returning prisoners in fact have confirmed our beliefs that the world opinions aroused by these efforts gained the attention of North Vietnamese leaders and resulted in improved treatment for our men during the final years of captivity.

Prior to the Paris Agreement, the North Vietnamese had released limited information through unofficial channels on the number of prisoners they held. These fragmented lists in most instances contained the names of men whom we already had classified as prisoners. Moreover, the information in these documents was considered incomplete because there was no mention of the physical condition of the men indicated as captives, and there was no description of the cause of death or disposition of remains of those listed as deceased. Further, the lists did not include the names of all Americans we believed had been captured and about whom they clearly should have knowledge. At no time during the conflict was this kind of information made available

by North Vietnam or its allies. Although the names of a few captured in South Vietnam were released late in the conflict, no such information with regard to men lost in Laos was forthcoming until after the signing of the Paris Agreement.

In Paris, the issue of our captured and missing men was a prime consideration, and we put forward numerous initiatives designed to foster substantive negotiations aimed at the release of all prisoners of war on both sides. These were rebuffed time and time again by the other side with propaganda tirades, stale polemics, and demands for unilateral concessions on our part before any discussion on the issue of the prisoners and missing could begin. In his opening statement at the forty-eighth plenary session of the Paris meetings on December 30, 1969, Ambassador Philip C. Habib stated:

"Some Americans have been held by your side since early 1964. Others have been missing since that time. And yet you still refuse to inform all families of the fate of these men."

"On December 22 a spokesman for your side is reported to have said, 'we refuse to give the list of names to the Nixon Administration, but the prisoners' families will know their names by and by.' A gradual, piecemeal process of providing a few names at a time to anxious families is no substitute for making known without delay the names of all prisoners of war."

The text of this and other statements made by Ambassador Habib in Paris are contained in the record of hearings before the Subcommittee on National Security Policy and Scientific Developments of the House Committee on Foreign Affairs which were held in April and May 1970. Testimony by State and Defense witnesses before this and other Congressional bodies on numerous occasions since 1969 has repeatedly reported our efforts in a variety of channels on behalf of our missing and captured men, and the consistent refusal of the communists to provide substantive response.

Many of our men were lost through circumstances of which the other side clearly had knowledge. This knowledge was manifested through enemy propaganda broadcasts, foreign media reports and other sources. On numerous occasions, Hanoi radio would proclaim the "heroic acts" performed by North Vietnamese Air Defense personnel in shooting down American aircraft and the subsequent capture of the pilots. Many of our men whose losses correlated with the substance of these reports remain unaccounted for by the other side today. A representative sample of such losses, together with the attendant evidence that the other side has knowledge of their fate, is at Attachment 1.

In still another attempt to convince the DRV and the PRG of the inhumane folly of refusing to provide information on the missing, we presented the DRV delegates in Paris a pamphlet containing the names, photos and circumstances of loss of 14 US airmen downed over North Vietnam, and requested

information about them. These 14 cases were and are representative of many cases in which men were known to be alive when last seen or heard from; or in which the other side had publicly indicated knowledge of the incidents. No formal response to our request from the DRV was received. A copy of the pamphlet is at Attachment 2.

Negotiations in Paris finally produced the agreement which was signed in Paris on 27 January 1973. Obligations undertaken by the signatories included the provision of lists of prisoners and the time frame for their repatriation as well as those for the exchange of information about the missing and the return of the remains of the dead. The latter obligations are clearly spelled out in Article 8(b) and remain to be completed by the other side.

Final rosters provided in conjunction with the signing of the Agreement listed 566 US military and 25 civilians (including two military and one civilian in China) and 9 third country nationals to be repatriated. These rosters provided the first specific information with regard to 52 servicemen to be repatriated whom the Services had previously listed as missing in action. It was interesting to note that 36 of these men were lost in late 1972 and early 1973. Additionally, the DRV and the PRG listed 55 US servicemen as having died in captivity.

The Four-Party Joint Military Commission, which was established in accordance with Article 16 of the Agreement, was charged with implementing certain articles of the Agreement, including those concerned with the return of military and foreign civilian prisoners of war and accounting for the missing in action. The Commission began its work on January 31, 1973, and was limited to 60 days of operation.

The US Delegation made every effort to implement and enforce the provisions of the Agreement. It planned and executed the withdrawal of US and allied forces and negotiated the release and return of the US and foreign prisoners of war. It also played a major role in negotiating the repatriation of the military prisoners of the two South Vietnamese parties. During this period 26,508 Provisional Revolutionary Government (PRG) and 4,956 Republic of Vietnam (RVN) prisoners of war were repatriated, most of whom were transported on US aircraft.

In addition to these duties, the US Delegation began efforts on 1 February 1973 to obtain an accounting of the missing and the repatriation of remains of those listed as deceased. Although the communist delegations acknowledged their responsibility for this action, they were not receptive to our overtures for early resolution of the problem. We continued our initiatives in this vein throughout the ensuing 60 days but without substantive results.

When the Joint Military Commission ended its activities, the Four-Party Joint Military Team (FPJMT) was formed. This Team, as prescribed by the Agreement, has the single responsibility for the implementation of Article 8(b), which deals strictly with accounting for the missing and the return of the remains of those who have died.

The US Delegation to the FPJMT began its work on 2 April 1973. Our Chief of Delegation, an Army colonel, is responsible through the Defense Attache Office in Saigon and the US Support Activity Group in Thailand to the US Commander in Chief, Pacific. Our Delegation receives policy guidance and instructions from the American Ambassador in Saigon.

The FPJMT established a schedule that called for meetings approximately twice a week, commencing on 4 April 1973. Beginning with that first meeting, we proposed immediate discussion of plans for the return of the remains of those listed as having died in captivity and for the exchange of information on the missing.

To assist the other side in this endeavor, the United States provided the other delegations with detailed listings of all known US and third country nationals missing and listed as deceased in Indochina. The DRV and the PRG accepted these lists and assured us they would provide whatever information they possessed. To further assist with the accounting for the missing, the United States, at the request of the DRV and RVN, agreed to provide a weekly liaison flight between Saigon and Hanoi. This mission, using US Air Force C-130 aircraft, began operating on 7 April 1973.

We continued to pursue the issue of return of remains of those listed as deceased, believing this represented an action that could be completed without delay and one which would provide the basis for future progress. In mid-April, after discussing plans to exhume and repatriate the remains of those listed as having died in captivity, the DRV and PRG assured us of their cooperation on this issue, but emphasized the need for agreement on general modalities before proceeding to specific operations. While we recognized the need for agreement on broad principles governing activities to account for the missing, we also insisted that immediate progress could be made on the simple and clear-cut issue of the return of remains of the dead. The DRV then proposed that the FPJMT visit the cemeteries where the US dead were interred before repatriation began. They stated that visits to cemeteries in North Vietnam could be made in May and that DRV officials would be prepared at that time to discuss the US plans for the repatriation of the remains.

The first visit was made on 11 May to the Van Dien Cemetery, approximately 15 miles southwest of Hanoi. The team was shown three graves allegedly containing the remains of US servicemen. Two were identified as having

died in captivity while the identity of the other was unknown. (Despite persistent questioning, the DRV refused to identify this last individual. They would only state that he was a crew member of an aircraft and was not carrying any identification when he was found.) The team posed a number of questions relating to the recovery of the remains. The DRV officials would not respond directly to the questions, but instead cited the need for discussions and complete agreement on procedures and modalities by the FPJMT in Saigon. The team then returned to South Vietnam.

One week later, on 18 May, the DRV again hosted a visit to the cemeteries in North Vietnam. This visit was to the Ba Huyen Cemetery, some 30 miles northeast of Hanoi. This time the team was shown 22 graves. Twenty-one (21) allegedly contained the remains of US servicemen listed as having died in captivity, while the other was reported to be that of a Thai National. The DRV Delegation had again indicated prior to the visit that local DRV officials would be prepared to discuss the return of the remains. Again this proved not to be the case. Instead, they followed the same line as experienced on 11 May. They did not respond to direct questions and the US proposal for the return of the remains. Instead, they referred all discussions to the FPJMT in Saigon.

Following that visit the US Delegation made repeated requests to recover those remains and offered again and again to discuss any aspect of their repatriation. The DRV reply was always the same: There must be complete agreement on all aspects of Article 8(b) before proceeding with any specific operations. Finally, after ten months and repeated US initiatives, the remains of the 23 American servicemen were delivered to us in Hanoi in March 1974. Of those 23, 15 had been classified by the Services as prisoner of war, seven as missing in action and one as deceased - remains not recovered.

The history of the Four-Party Joint Military Team, including its initiatives and frustrations, has been well documented and reported to the Congress. The last such report was contained in a memorandum of 7 October 1974, which was distributed to all Members of Congress. A copy is at Attachment 3.

Instead of responding to our purely humanitarian requests, the DRV and PRG have used a multitude of schemes and tactics in evading their legal and humanitarian obligations. They have insisted on discussing issues that are not within the purview of the FPJMT, and have even attempted to renegotiate points that had been previously agreed upon in the Four-Party Joint Military Commission. Additionally, from the beginning of negotiations in that forum, they have insisted on discussion and linkage of other unrelated parts of the basic agreement. For example, they have repeatedly attempted to link Article 8(a), which governs the return of military prisoners and foreign civilian personnel, and Article 8(b), which is the sole responsibility of the FPJMT, to Article 8(c), which relates to Vietnamese civilian detainees. Article 8(c) itself clearly specifies that the civilian detainee issue is the responsibility of the two South Vietnamese parties.

The other side introduced to the FPJMT a proposed agreement on modalities for the implementation of Article 8(b). This proposed agreement contains many contentious and extraneous points well beyond the scope, spirit and intent of Article 8(b). One of the most objectionable of these points is the construction of cemeteries, monuments and war memorials for the dead in the territory of the other parties. The DRV and PRG have insisted it is necessary to build these cemeteries, monuments and memorials because they might not repatriate all of their dead from the territory of other parties. These measures are far beyond the scope of Article 8(b) and represent cynical attempts by the DRV and PRG to further their own military and political goals and to exploit further the genuine and humanitarian concern of the US of accounting for the missing.

On its part, the government of South Vietnam has stated that it will assist with the repatriation of all DRV and PRG dead to the territory controlled by the latter. It has also stated it would maintain the graves of those not repatriated at their present location or in a national cemetery. Our side is fully aware of the DRV-PRG motives on this issue. They employed similar tactics following the 1954 Geneva Agreements, using them for political and military purposes in South Vietnam.

Still another issue irrelevant to the work of accounting for the missing is the DRV and PRG insistence that the Vietnamese next of kin be allowed to visit graves prior to or in lieu of repatriation. This issue is also beyond the spirit and intent of Article 8(b) and is clearly a matter to be settled by the two South Vietnamese parties in the discussions of the Two Party Joint Military Commission.

Proposals such as these serve not to relieve the suffering and uncertainty of the families of the missing, but only to further the political goals of the DRV and PRG. Despite their much acclaimed humanitarian policies, it is clear that they are continuing to use the suffering of the families of the missing to achieve political gains. Conversely, we have continually expressed the view that we should exchange information on the missing to relieve the suffering and anxiety of these families.

Instead of facilitating an accounting for the missing, the plenary sessions of the FPJMT have become a forum for propaganda speeches, boycotts, walkouts and general stalling tactics by the other side. The DRV and PRG have devoted many hours to the detailing of alleged violations of the agreement and ceasefire by the US and South Vietnamese. Our efforts to redirect the discussions to substantive issues have met with frustration and failure.

On 2 October 1973, for example, in their response to the proposed agenda, the PRG read a prepared statement alleging ceasefire violations by the US and RVN and walked out of the meeting. This act was repeated on 9 October and again on 15 November. On 8 and 27 November they boycotted the entire sessions in protest of alleged ceasefire violations.

On 18 October 1973, to cite another example, the US proposed discussion of the exchange of information on the missing and deceased and the FPJMT responsibilities for third country nationals. The PRG response was the reading of a 25-minute statement on alleged ceasefire violations. The US delegate ignored these charges by restating the proposed agenda. This was followed by a 30-minute harangue by the PRG reiterating their earlier statement.

This lack of progress has not gone unchallenged. The US Delegation has made repeated protests to the DRV and PRG, but all to no avail. In a detailed statement during the FPJMT meeting on 27 September 1973, the US Delegation in Saigon systematically reviewed the US efforts to obtain implementation of Article 8(b) by the DRV and PRG, and cited the lack of cooperation and humanitarian spirit demonstrated by the other side. This statement, as with our previous efforts, was rejected.

In sum, the US and South Vietnamese Delegations have made many substantive proposals during the FPJMT meetings that would have advanced the work of resolving the status of the missing on both sides. The DRV and PRG have rebuffed these efforts, and have preferred instead to tie up the sessions with discussions of non-germane and political issues. The communist delegations walked out of the meeting on 30 May 1974 and have continued their boycott since that time, failing to show up for more than 70 consecutive plenary sessions. Nevertheless, the US and GVN delegations have continued to meet, and we have continued to remind the other side by formal memoranda of their refusal to respond to our previous requests for information on our missing men.

Despite this complete lack of cooperation from the DRV and PRG, we have made some progress in the resolution of missing cases as a result of search operations by teams of the Joint Casualty Resolution Center (JCRC). This organization is a joint task force located at Camp Samae San in Southern Thailand. Within the limits imposed upon it, the JCRC supervises and conducts search operations designed to assist in resolving the fate of the missing and to recover and identify remains where possible. The entire operation is peaceful, open and humanitarian in nature.

Our teams have been operating thus far only in South Vietnam, with the approval of that government. Previously, requests for our teams to conduct searches were formally circulated through the FPJMT to obtain the approval of the party controlling the territory, and all delegations were fully informed of our intended searches and were provided detailed schedules of these programmed operations. Further, all delegations were invited to accompany the American teams to observe each operation. Up to now, only the RVN has accepted our invitation to observe these operations. We have made requests to enter communist territory to conduct searches, but so far permission to do so has been denied.

The last full-scale operation was conducted on 15 December 1973. In keeping with established procedures, the US Delegation requested permission from the RVN to conduct a search of a known crash site near Saigon. All other delegations were informed of this request and the RVN granted permission for the team to enter the area. On 13 December the team, wearing the traditional orange FPJMT insignia, conducted an initial survey of the site. On 14 December, in keeping with normal policy, members of the news media visited the site and observed operations. On 15 December the search team returned to the site to continue their work. Immediately upon landing, they were attacked by a hostile force of undetermined numbers. In keeping with established policy, the American team leader raised his hands in the international sign of surrender and shouted in Vietnamese that they were unarmed. He was killed almost immediately by the attacking force. One of the RVN team members accompanying him was also killed. In addition, four Americans and three Vietnamese were wounded and one helicopter was destroyed. This was nothing more than a coldblooded, calculated attack on an unarmed group which was engaged in a humanitarian mission. The DRV and PRG were fully aware of the purpose of this mission. They were informed of all of the details and had been extended the traditional invitation to accompany the team.

The United States has vigorously protested this coldblooded murder. Both the US Chief of Delegation and the RVN Chief of Delegation strongly condemned this attack in the plenary session of 18 December 1973. Following the delivery of their protest, both the US and RVN Delegations walked out of the meeting, for the first time in these negotiations.

It is interesting to note that the PRG refused to attend the next scheduled session. They stated they were displeased with the attitude and actions of the US delegation. Although the PRG have denied responsibility for the incident, they threatened the safety of future searches. Additionally, they have attempted to divert attention by stating that the search was illegal and was nothing more than a reconnaissance mission for military purposes. Nothing could be further from the truth; the mission of searching for the missing and dead by the JCRC is open, peaceful and strictly humanitarian.

With regard to all of our search efforts, we have enjoyed excellent cooperation and assistance from our South Vietnamese allies. They have assisted us in launching a nationwide publicity campaign to solicit information from the populace on missing and dead Americans. This program has resulted in the receipt of numerous reports and information, some of which definitely relate to missing Americans. The program has also been instrumental in locating some crash and grave sites. The South Vietnamese themselves have conducted some searches and recoveries resulting in the resolution of several cases of missing Americans.

We have also conducted at-sea searches in the Danang area. These efforts involved the use of modern side scanning sonar, television equipment and divers. The searches covered several square miles and resulted in the locating of the wreckage of nine aircraft. Some of these might have been related to unresolved cases, but the condition of the wreckage made positive identification impossible. One, however, provided sufficient information on which to base status changes.

With regard to Laos, an agreement was signed in that country to end the hostilities there around the time of the repatriation of our prisoners from Vietnam. The United States is not a signatory to this agreement. The only Americans lost in Laos for whom there was an accounting at the time of the Vietnam ceasefire were seven military and two civilians released in Hanoi on March 28, 1973, through the North Vietnamese. No lists of missing or of those who died in captivity have yet been provided. The Laos agreement specified conditions and provisions for the exchange of prisoners of war and information on the missing similar to the Vietnam agreement. Implementation of the section of the agreement concerning the release of prisoners began last fall and resulted in the release of Emmet Kay, an American, on 18 September 1974. We have received indications that the Lao parties will address the missing and dead issue in the near future. Meanwhile, the problem of accounting for our missing remains.

Throughout the conflict in Southeast Asia, men were placed in a missing status based on the circumstances of loss, witness reports, search and rescue results and the field commander's recommendation. We learned through various means that some men had survived very severe incidents to become prisoners, while others had simply disappeared.

Some servicemen were continued in a missing status even though the probability of survival was remote. The Services placed some individuals in a prisoner status based on information available at the time only to learn later that the information was probably invalid or that subsequent events had altered the initial situation. There were instances, for example, where men escaped from damaged aircraft and landed uninjured. They were seen on the ground or were in communication with airborne aircraft. In other missing cases, the available information indicated that the probability was slight that a man survived the incident of loss.

The many unknowns regarding the loss of our men, coupled with the refusal of the other side to acknowledge the capture or death of our men as required by the Geneva Convention Relative to the Treatment of Prisoners of War, tempered the judgment of those charged with ascertaining the fate of the missing member. The overwhelming consideration was that our returnees would be able to provide us with additional information at the time of their release, or that this information would be provided as the result of a negotiated agreement with North Vietnam and its allies.

After the return of the acknowledged American prisoners of war, each of these men were questioned as to their knowledge of the 1363 others still missing. We had anticipated that they would be able to provide us with significant information concerning those who did not return. Unfortunately, they could add little to what we already knew. They were able to provide data that was useful in the resolution of fewer than 100 cases. Some of the returnees provided information that confirmed deaths reported by the other side. Others provided what might be considered as negative, although not complete, information. This information indicated that the circumstances under which the returnee had escaped from a damaged aircraft or the last known condition of the missing serviceman indicated the probability that many had perished in the crash, or had not survived the battle. The thrust

of much of the information we received from our returnees and an analysis of the circumstances of loss strongly indicate we were, in fact, welcoming home the survivors of catastrophic situations. These are most prevalent in the loss of high performance aircraft.

Studies conducted by the Air Force and Navy covering the circumstances of escape from disabled aircraft by our returnees and by those who were rescued on the scene strongly support these conclusions. The extent of injuries related to combat escapes was markedly greater than in escapes from aircraft in peacetime losses.

Nevertheless, we had little or no information concerning many men and indications that some men had, in fact, been captured, while in other cases, we believe men should have been captured. Thus, we were hopeful that the other side would provide us with all available information on our missing men as they were required and had promised to do. There were, however, a number of cases in which status reviews were warranted by the information already possessed by the Military Services.

The authority and responsibility for the recording and changing of status of missing servicemen are vested in the Secretaries of the Military Departments, and are governed by Sections 551-558, Title 37, United States Code. To assist him, each Secretary calls upon professionals within his organization who conduct an exhaustive study, based on all available information of each individual case. Their task is a painful one requiring countless hours of deliberation and calling ultimately for difficult decisions. Those involved in this often unhappy part of the prisoner of war/missing in action issue are experienced, skilled, and expert in upholding the public law and at the same time protecting, to the best of their ability, the ultimate interests of the missing men and their families.

In making such determinations, two options exist in addition to that of retaining the individual in a missing status. In those cases where information is received which conclusively establishes that the member is dead, then a report of death will be issued. A finding of death, commonly known as a "presumptive finding" is made when circumstances are such that the missing individual cannot reasonably be presumed to be living. An individual who was lost over water and who was not among those released or acknowledged by the other side in any way is one good example of a potential "presumptive finding."

Status changes are not unalterably tied to the inspection of combat sites or to the recovery of remains. Changes in status were made from missing in action or prisoner of war to killed in action throughout the recent conflict, based on individual reviews of the cases of the missing members. A number of these changes have also been made since the signing of the Agreement in Paris. From January 27, 1973 through 1 March 1975, 456 status changes were made by the Military Services. This number includes 140 reports of death based on circumstances of loss, recovery of remains, returnee debriefs and related information. There have been 316 findings of death, based on similar but less precise information. Of these, 35 changes were related

to over-water losses. These incidents had been previously investigated, searches conducted and there was, in the judgment of the reviewing official, little likelihood any additional information would ever be forthcoming regarding the loss. Although these losses were related to the combat environment, they were more closely related to operational at-sea losses.

Of the total number of changes made since the signing of the Ceasefire Agreement, 43 were made in the cases of men listed by their Services as having been captured. Fifteen of these were based on the recovery of remains. Another fifteen were reports of death, again based on returnee debriefs and other information. The remaining thirteen were findings of death. All of the reviews have been conducted in accordance with the law and with full consideration of all the facts. The Services have made every effort to administer the law fairly and justly with full regard for the missing member and his family.

Procedures were revised a year ago to comply with the decree which was entered on 11 March 1974 in McDonald v. McLucas. This suit was filed against the Secretaries of the Military Departments regarding case reviews and status changes under Title 37, United States Code. The decree required that future case reviews which could result in findings of death not be made by the defendants unless certain rights were afforded those next of kin currently receiving governmental financial benefits. This action is also described in greater detail in the Defense Department memorandum of 7 October 1974 for Senators and Representatives, appended at Attachment 3.

The Services promulgated regulations to implement the requirements of the court's decree, and all reviews since 11 March 1974 have been conducted in full compliance with those requirements. The Service regulations require that reviews be preceded by the offer of the rights to the affected parties which are required by the decree. When the case of a missing serviceman is to be considered for review, the specified next of kin are to be informed by a letter from the appropriate Service. The letter also contains an explanation of their rights to a prior hearing, of counsel, of access to information and to present information. If a hearing is desired by the specified next of kin, additional liaison by the Service casualty office is to be conducted to ensure a time convenient to the family. In a number of instances, hearings have been rescheduled several times pursuant to family requests. A summary of the Service case material to be utilized in the hearing is made available to the specified next of kin prior to its scheduled date. No information which has not been made available to the specified next of kin as a result of the hearing will be considered by the review board in the course of their deliberations.

The work of the Secretaries in implementing this law is complex and difficult. The law, for example, covers peacetime as well as combat losses. Although in some cases the facts surrounding the loss are clear and unambiguous, other cases contain few indications that might reveal the complete story. This is true even in peacetime losses where initial loss information sometimes indicate strong probability of survival and good chances for location and recovery.

For example, a military aircraft was lost in November 1963 near Spokane, Washington. The following day, one crewmember was rescued and the aircraft wreckage and both ejection seats were found, indicating the other crewmember had successfully escaped from the disabled aircraft. However, the other man could not be found.

Deteriorating weather hampered the search for the next few days. Nonetheless, the search continued through the winter and was reintensified in the spring. Still, no trace was found of the missing man. Efforts continued through the years and there were numerous reports concerning the missing pilot by well-meaning individuals. One such report alleged that the man was seen at a local service station some two years after the incident.

In 1973, the discovery of another part of the aircraft caused a concentration of search efforts. On 7 October 1974, almost 11 years later, the remains of the man were found, together with evidence of his death on the date of the incident. This example illustrates the efforts we expend to locate and recover anyone who is lost -- regardless of circumstances or location. This man was in a missing status for some nine months before he was presumed dead, and while he was listed as deceased, search efforts continued in his behalf.

The loss of Congressmen Hale Boggs and Nick Begich in Alaska is another noteworthy example. As in the previous case, we had virtually unlimited resources to search for these men in a peaceful environment. Nonetheless, our search efforts met with no success.

Two other classic examples from the past are included at Attachments 4 and 5. One was an operational loss of an aircraft in 1943 in Arizona. The other was a combat loss of an aircraft in 1944 in New Guinea.

A question asked frequently by the families and other relatives of our missing is whether our efforts to account for a man will continue if he is declared dead. The fact that a man's status has been changed to deceased by the Military Service, regardless of circumstances or when such a change was made, does not mean that the Government ceases its efforts to account for him. The previous account of the ambush of our JCRC search team, wherein an Army officer was killed, should be particularly noted. The individual who was the object of that operation had previously been classified as killed in action, remains not recovered. Our efforts in Southeast Asia continue for individuals in this category just as they do for those who are missing.

The statute under which status changes are made has evolved in the light of experience gained from previous conflicts and operational losses. The law, as written, provides the kind of flexibility needed to address the many and varied circumstances of loss, wherever and however they may occur.

After the return of the acknowledged prisoners of war, in addition to the 1363 American servicemen who remained in a missing status, there were over 1100 Americans who were listed as killed in action but whose remains had not

been recovered. This figure represents approximately 4.3 percent of the total deaths resulting from the conflict. By comparison, 22 percent of the total casualties were not recovered from World War II. Coincidentally, this same percentage also applied to the Korean War. The lower percentage in Vietnam is due in part to improved methods of search and rescue and in part to the nature of that conflict. In fact, one of the most remarkable aspects of the conflict was the recovery or rescue of many of our personnel following their loss.

A Navy study shows that 38 percent of downed Navy aircrews were recovered, with an additional 28 percent classified as prisoner. Seventeen percent were carried as missing and 16 percent killed in action. Air Force records reflect a total of 2541 combat rescues. This included 174 in North Vietnam, 776 in Laos and 1591 in South Vietnam. Some of the most heroic deeds of the conflict were associated with search and rescue efforts. The extensive resources and concerted efforts devoted to the search and recovery of our men in Southeast Asia resulted in the rescue of many who would otherwise have been lost. Some search efforts were, of course, unsuccessful due to the hostile environment, terrain or lack of definitive information on the location of the loss. It should be noted that 84 percent of the 913 men still listed as missing as of 1 March 1975 are associated with air losses.

There are, no doubt, a number of cases where the other side has little or no information about the fate of the men, and where thorough searches may turn up little new information. These could be the result of aircraft losses in remote mountainous terrain or over water, including rivers and harbors. This might also be the case where the aircraft totally disintegrated in flight or on impact with the ground. Experience with similar losses here in the United States has shown there are often only minimal remains of the occupants of the aircraft, and these may be dispersed over a wide area. Even with all the expertise and resources available in this country, it is sometimes difficult to make any substantial recovery of remains. Considering the severity of certain incidents, the ravages of war and passage of time, there may well be some men for whom the other side simply cannot account, and where searches will prove fruitless.

The Department of Defense will continue its efforts to achieve an accounting for the more than 2400 missing and dead Americans in Southeast Asia for as long as necessary. We are prepared to do the job through the machinery that we now have in being, but because the problems surrounding the question of those not yet accounted for are difficult in every aspect, we are convinced that the issue will not be resolved quickly or easily.

Since the DRV/PRG boycott began in June 1974, the US and RVN Delegations to the FPJMT have continued to meet regularly at the scheduled plenary sessions and have repeatedly invited the DRV and PRG to return to the

negotiating table. The US delegation remains prepared at any time to resume meaningful negotiations to account for the missing and to complete arrangements for the repatriation of the remains of the dead. Both the US and RVN delegations have provided information pertaining to their missing which is deemed necessary to assist the DRV and PRG in the accounting. The RVN has on numerous occasions attempted to exchange lists of missing with the other side and has given them lists of DRV and PRG dead in an effort to enhance progress, but all to no avail.

The US continues to provide a weekly Saigon-Hanoi liaison flight even though the primary purpose of this flight -- exchange of information on missing and dead -- has not been met. The US also continues to provide vehicular support to the DRV/PRG. The RVN continues to supply billeting, electricity, water and other supplies to the DRV/PRG. Privileges and immunities as agreed upon by the four parties continue to be extended to the communist delegations. The RVN even continues to allow a weekly press conference for the PRG, even though it has frequently been used to call for the overthrow of the South Vietnamese Government.

Now, having completed their full circle of stalling tactics, propaganda tirades and allegations, the DRV has returned, through a letter from the Foreign Minister to Senator Kennedy, to a call for the United States to abandon the GVN and cease all military aid to South Vietnam, with the vague implication that implementation of Article 8(b), regarding those still missing, would follow. For four years in Paris, we heard similar demands for such unilateral concessions before discussions on the issue of the prisoners could begin. This is clearly a continuation of their former practice of relying on the sorrow and uncertainty which is borne by the families of our missing men to force the US to grant concessions to their political and military goals which they did not attain on the battlefield, in return for something that they are clearly obligated to produce in accordance with an international agreement.

Attachments - 5
as

Nhan Dan
6 June 1966
Page 1

PFTU JAW RUWMOGA0701 1561145-0000--RUWTFJA.
DE RUABED 22A 1561034
ZNR 00000

P 051028Z ZYT /
FM FBIS OKINAWA
TO RUABAB/CG313TH AIR DIV
RUABAB/824TH COMBAT SUPPORT GRP
RUABAB/CO 18TH TFW
RUABAB/CO 498TH TMG
RUABFB/CGUSARYIS
RUABGK/CO 51ST FIW
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RUHLHG/CINCPAC HAWAII
RUHLHS/CINCUSARPAC HAWAII
RUHLKN/PACAF HICKAM AFB HAWAII
RUMBAJ/NACT J-2JAJU 3, 18TH TFW KORAT AB THAILAND
RUMTBK/ANEMB AND USIS BANGKOK THAILAND
RUMSHA/COMUSMACV
RUANC/CGEUSA SEOUL
RUANC/COMUSKOREA
RUUAUZ/5TH AF FUCHU AIRSTA JAPAN
RUABUL/COMSEVENTHFLT
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8051028 HM REFIL:
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5 JUNE 1966--H

(U.S. PLANE DOWNED OVER NORTH VIETNAM)
(TEXT) HANOI, 5 JUNE--ONE U.S. PLANE WAS SHOT DOWN BY THE NORTH VIETNAM ARMY AND PEOPLE IN THAI BINH PROVINCE ON 3 THREE JUNE, ACCORDING TO A SUPPLEMENTARY REPORT ANNOUNCED HERE TODAY.

ANOTHER SUPPLEMENTARY REPORT SAID THAT THE U.S. PLANE DOWNED IN THANH HOA PROVINCE ON THE MORNING OF 31 THIRTYONE MAY WAS A TRANSPO PLANE. ALL SEVEN ENEMY TROOPS ON BOARD WERE KILLED. 050916
WILLNER/DAILEY 05/0938Z JUN

BT

On 3 June, Thai Binh

DOWNED ONE AMERICAN AIRPLANE

VNITX News - As we have announced, on 3 June 1966, Quang Binh shot down one American airplane.

Additional news: Also on 3 June, American airplanes committed atrocities in Thai Binh. The military and people of Thai Binh have properly punished them, downing one airplane.

The combat victory of Thai Binh brought the number of American planes downed in the North to 1,068 up to 3 June.

*As Nhan Dan announced, at 1 AM on 31 May, the military and people of Thanh Hoa shot down one enemy plane which violated the airspace of our region.

Additional news let us know that that airplane was a four-engine C130, which belonged to the American Air Force. Seven enemies in this airplane have paid for their crime.

NORTH VIETNAM

K 11

HANOI DESCRIBES DOWNING OF F-111 IN VINH PHU PROVINCE

Hanoi VNA International Service in English 1646 GMT 18 Oct 72

[Text] Hanoi VNA October 18--It was only a few minutes past midnight on Oct 17, The inhabitants of village T, Vinh Phu Province, were fast asleep (except of course the militia on guard duty.) Suddenly there came the rumble of anti-aircraft guns from afar, followed by the familiar machinegun fire of the militia. Then came the hissing of a jet plane... an earth-shaking explosion. A huge column of fire shot from the field on Dam Quan. The blast was so intense that it illuminated the village.

That was the 4,000th U.S. plane shot down in North Vietnam. It crashed in pieces on a flooded rice paddy. The explosions of the bombs and rockets carried by the plane shattered it into smithereens, dug a gaping crater and flung mud and earth to make a fairly high causeway around the hole. Debris of the plane were thrown as far as 300 meters away to the other bank of the Ca Lo River. The militia gathered many of these debris, the smallest the size of a hand and the largest the size of a sleeping tank.

The markings "T.O. 111-A-2-1-FOR" are still visible on many fragments. On a big debris of 111-A-2-1-FOR there is an emblem featuring a sword and a spread eagle. Beneath is the inscription "Tactical Air Command." Another fragment is the remains of a fuel container with description of its capacity: 400 gallons. At the mouth of the container, right beside the instruction on the way of refuelling, there are the words see T.O. 111-A-2-1-FOR.

Thus another swing-wing F-111 plane shot down over North Vietnam, one of the most versatile, most up-to-date and also costliest planes of the USAF, according to Pentagon boasts.

This identity of the plane is further evidenced by the papers found in the debris. In fact, there is a fairly thick manual with each page carefully protected by a transparent sheet of plastic on top of which are inscribed these words: T.O. 111-A 34-1-1CL. The "practice rocket firing and bombing" is given on the 23d page. Another page gives the instruction on how to operate the signal lighting on the plane and on another page, the way of ejecting from the plane.

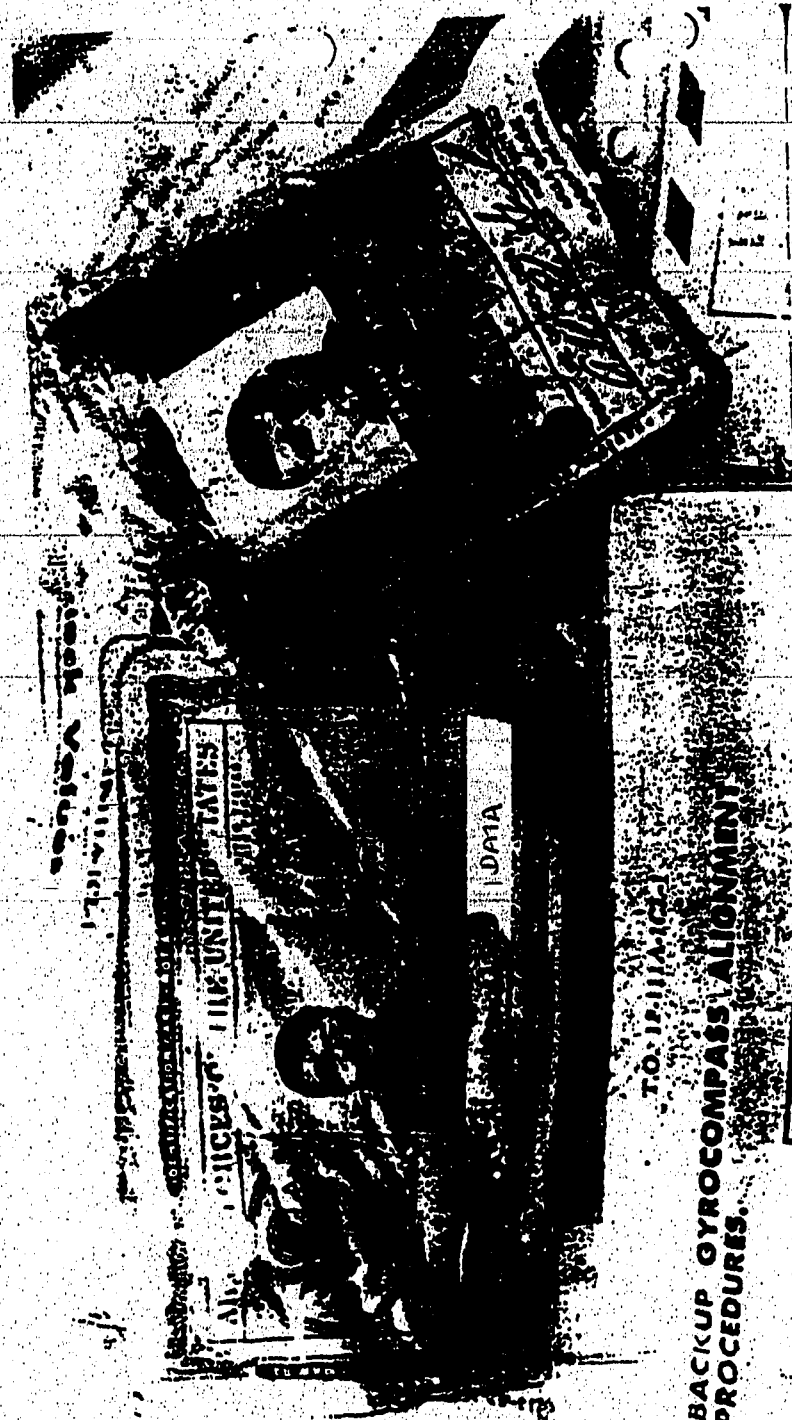
The two U.S. pilots were mangled as badly as their craft. Their cards floated on a flooded field. They are Captain Hockridge James Alan, [name as received] and Captain Graham Allen Upton, a giant of almost seven feet and 185 pounds.

One of the "life jackets" was found floating on the nearby river. And, there is another and indispensable thing carried by all U.S. pilots in their flights over North Vietnam: That is a strip of cloth with the stars and stripes and a multi-language entreaty which begins like this: "I am a citizen of the United States of America. Misfortune forces me to seek your assistance in obtaining food, shelter and protection."

COMMENT ON F-111 ATTRIBUTED TO UNIDENTIFIED AMERICAN POW

Hanoi in English to American Servicemen Involved in the Indochina War 1300 GMT 19 Oct 72 B

[Text] A detained American pilot comments on the F-111 swing-wing plane. [Follows recording of unidentified male voice with American accent]



TO: 111-A-2-1-FOR
BACKUP GYROCOMPASS ALIGNMENT
PROCEDURES.

IDENTITY CARDS OF CAPTAIN HOCKRIDGE JAMES ALAN AND
CAPTAIN GRAHAM ALLEN UPTON, TWO US PILOTS OF THE F-111 SHOT DOWN IN VINH PHU
PROVINCE, ON OCTOBER 17, NOTI DIED IN THIS CRASH.

HANOI VNA RADIOPHOTO IN ENGLISH TO EAST EUROPE 0631 GMT 18 Oct 72 PMS

(28)

VNA 1217, HANOI, DEC 29--A CORNER OF THIAMI HOA HOSPITAL BOMBED OUT BY U.S. AIR MARAUDERS ON DEC. 26 (LEFT); PERSONAL UTILITY AND IDENTIFICATION CARDS OF THE TWO U.S. PILOTS DALE FRANCIS KOONS, 1st Lt. AND LAWRENCE GENE STOLZ, CAPTAIN, WHO WERE DESTROYED TOGETHER WITH THEIR AIRCRAFT ON DEC. 26 IN HAM RONG AREA, THAMI HOA PROVINCE (NORTH VIETNAM) (RIGHT).

HANOI VNA RADIO PHOTO IN ENGLISH TO SOUTHEAST ASIA.
0605 GMT 29 DECEMBER 1971 B. 19990 KHZ 60PM DRUM SPEED.



HANOI SAYS CAPTURED U.S. PILOT KILLED BY STRAFING U.S. PLANES.

301317 HANOI IN ENGLISH TO AMERICAN SERVICEMEN INVOLVED IN THE
INDONESIA WAR 2305 2.5 30 OCT 72 B

(TEXT) NORTH VIETNAM: ONE AMERICAN PILOT WAS KILLED BY
U.S. AIRCRAFT AFTER HE WAS CAPTURED IN NORTH VIETNAM SUNDAY,
OCTOBER 29. THE PILOT IN QUESTION WAS SHOT DOWN WHEN HE WAS
ROAMING POPULATED AREAS OF HOUE AN PROVINCE. HIS F-4 CRUSADER
CRASHED ON THE SPOT 500 METERS FROM THE SHOT. HE SAILED OUT
AND COLLAPSED ON THE WATER AND WAS CAPTURED BY BOAT-RIDING
MILITIAMEN.

AT THAT MOMENT, SEVERAL U.S. AIRCRAFT CAME AND STRAFED THE
BOAT. WHEN THE PLANES LEFT THE CAPTURED PILOT WAS KILLED BY HIS
OWN MEN. HIS OWN MEN. HIS BODY SANK WITH THE OAT. AMONG
HIS BELONGINGS BROUGHT BACK BY THE MILITIAMEN WERE A HELMET
A NOTEBOOK, A BEEPER AND A LIFERAFT.

30 OCT 1347Z AM/NA

CCDR
Sullivan
AFC
29 Oct

SUMMARY OF EVENTS

World War II - United States

UC-78 Aircraft and Crew

On December 28, 1943, the crew of UC-78 aircraft, Serial Number 43-7873, was scheduled for a training mission from Douglas Army Airfield, Arizona. The crew members were Second Lieutenant Douglas Dow and Aviation Cadet Clarence A. Thompson. The flight departed at 8:00 p.m. When it failed to return as scheduled, an air search was initiated. No trace of the aircraft or crew was ever found.

On April 28, 1974, the wreckage was discovered by two hikers near Safford, Arizona in the Coronado National Forest. The hikers notified the authorities of their findings the following day. The site was next visited by forest service officials who provided the military with aircraft identification plates from the wreckage.

A U. S. Army graves registration team assisted by forest service officials arrived at the scene on May 4 to begin their investigation and recovery of remains. There was approximately three feet of snow covering the ground at this time.

The aircraft itself was upside down, partially covered with snow and partially buried in the ground. Partial remains were recovered the first day along with one set of identification tags, two parachutes, one boot, one flight jacket, and equipment associated with the aircraft.

The following day, additional remains were recovered. Additionally, a wallet containing identification different from that of the identification tags found the previous day. It was learned that the identification found matched the flight manifest for the aircraft.

An additional search of the area was conducted June 25-26 with the recovery of some additional remains. With this recovery and subsequent identification of the remains, the case was considered closed.

SOURCE: U. S. Army Memorial Affairs Agency, Washington, D. C.

SUMMARY OF EVENTS

World War II - New Guinea

B-24 Aircraft and Crew

On 7 May 1944, the crew of B-24D aircraft, Serial Number 42-40525 was assigned a combat mission over Sawar, Northern Netherlands New Guinea. Records submitted by the 64th Bombardment Squadron, 43rd Bombardment Group, 5th Army Air Force, show the crew manifested aboard was:

First Lieutenant John E. Terping	Pilot
Second Lieutenant William R. Parkinson	Co-Pilot
Second Lieutenant George S. Silverman	Navigator
Second Lieutenant Kermit H. Kinne	Bombardier
Technical Sergeant Sidney H. Branch	Engineer
Staff Sergeant James H. McKain	Radio Operator
Staff Sergeant Ray E. Thompson	Assistant Engineer
Sergeant Richard F. Dixon	Assistant Radio Operator
Sergeant Michael E. Drucker	Gunner
Staff Sergeant Earl R. Pearson	Gunner

Records further show that the original ship assigned to the crew had engine trouble and they took a stand-by ship (42-40525). The plane was approximately 25 minutes late taking off from home base at Nadzab, Southeastern Australian New Guinea and was not reported as flying with any other formation. The plane and its crew was not seen or heard from after take-off.

Assuming that the aircraft was down in the area between Nadzab and Sawar, air searches were made over land and water along the northern coast of New Guinea. All searches met with negative results. The ten crew members aboard the aircraft were officially reported missing in action on 7 May 1944 and later presumed dead as of 15 February 1946 under the provisions of the Missing Persons Act. When the final search and recovery operations conducted by American Graves Registration personnel in all of New Guinea failed to locate aircraft 42-40525 and its occupants, the remains of the crew were determined non-recoverable. Because there were no graves to pay homage, our Government authorized the American Battle Monuments Commission to perpetuate their memory by inscribing their names on the 'Walls of the Missing' at the Manila Cemetery and Memorial, Manila, Republic of the Philippines.

In recent months, the wreckage of a World War II aircraft identified as a B-24D, Serial Number 42-40525 was discovered approximately 36 nautical miles northwest of Lae, Papua, New Guinea at an altitude of 2400 feet. From the position of the wreckage and unconfirmed reports by elderly natives in the area, the aircraft appears to have entered a blind valley and crashed while turning to get out. The wreckage, equipment and remains had not been disturbed by local native through the years as they were afraid to go into the area.

The recovered skeletal portions, as well as an aircraft identification plate and one (1) each identification tag for William R. Parkinson, James McKain, and Ray E. Thompson, were delivered to the United States Army Identification Laboratory, Tachikawa Air Base, Japan for anthropological examination and further processing for identification. Upon examination, it was confirmed that the portions recovered were definitely from the crew of the B-24D aircraft, Number 42-40525, however, individual identification and segregation could not be effected due to the severely eroded condition and extreme paucity of the skeletal parts. It was established that there was conclusive physical evidence of ten (10) individuals represented based on anthropological findings and conclusions. Laboratory officials recommended to Headquarters, Department of the Army that the remains be considered the only recoverable remains of the crew of the B-24D and that they be designated for a group burial.

A Board of Review, U. S. Army Memorial Affairs Agency, Washington, D. C., considered all facts pertaining to the recovery and identification and agreed with the recommendation that burial as a group is necessary.

The Department of the Army has, therefore, approved the group burial designation. This is based on the fact that there is no way to determine what portion of remains belong to a specific deceased crew member, therefore, to be equitable to each family, it is considered appropriate to inter the remains in a national cemetery in accordance with provisions of Public Law 85-716, 85th Congress, approved 21 August 1958.

The recoverable remains were placed in two caskets for burial in Arlington National Cemetery, Arlington, Virginia, where religious services were conducted and military honors rendered at the interment rites. The funeral was conducted on 18 October 1974.

To further honor their memory, a monument especially designed with the name of each crew member inscribed thereon will be erected at the grave.

SOURCE: U. S. Army Memorial Affairs, Washington, D. C.



DEPARTMENT OF STATE
Washington, D.C. 20520

December 24, 1975

Dr. Roger E. Shields
Deputy Assistant Secretary
of Defense (ISA)
Room 4E330, The Pentagon
Washington, D.C. 20301

Dear Roger:

I am writing to transmit the text of the memorandum given to President Ford on December 4 by Vice Premier Teng Hsiao-Ping of the People's Republic of China (PRC) concerning Americans missing or killed in or near the People's Republic of China. The Chinese memorandum responds to requests we transmitted to them over a period of time concerning U.S. personnel lost in the vicinity of China.

You will recall that during Secretary Kissinger's visit to the PRC in November, 1973, the Chinese told us that they had been carrying out investigations and searches based on the information that we had provided, that they were continuing their investigations, and that they would let us know if they discovered anything more. As Secretary Kissinger said in his press conference in Peking on December 4, the Chinese have now done so with their written memorandum, which responds specifically to all the cases we have called to their attention. As you know, the Chinese also returned the remains of two U.S. Navy personnel, PCRS Kenneth W. Pugh and Lt. Cmdr. Jimmy L. Buckley, whose ashes were returned to U.S. authorities in Hong Kong on December 15 via the American Red Cross.

The information in the PRC memorandum covered a total of 24 persons, 22 U.S. Navy personnel and two U.S. civilians. The memo also refers to three men who had been previously released, for the purpose of identifying the incidents in which others were lost or killed. The Department of State has no objection if the Department of the Navy wishes to place relevant excerpts from the memorandum, but not the full memorandum, in the folders of the servicemen concerned.

Needless to say we regret that the information provided by the Chinese is so negative in all these cases and hope you

will convey our condolences as appropriate to the families of the men concerned.

Sincerely,

Frank

Frank A. Sieverts
Deputy Coordinator
for Humanitarian Affairs

Enclosures:
As stated.

Memorandum Given to President Ford by Vice Premier
Teng Hsiao-ping in Peking on December 4, 1975

Proceeding from the desire to promote the friendship between the Chinese and American peoples and taking into account the repeated requests of the U.S. side, the Chinese side hereby provides the following information about the persons involved in the cases of American planes shot down for intruding into China's airspace or carrying out espionage missions in China, about whom the U.S. side has made inquiries:

1. On November 29, 1952 a U.S. espionage plane intruded into the airspace of Northeast China. It was shot down, and spy pilots John Thomas Downey and Richard George Fecteau were captured. (They were released respectively on March 12, 1973 and December 13, 1971.) Norm Schwartz and Bob Snoddy, the other two about whom the U.S. side has made inquiries, were found dead and badly scorched after the plane's crash, and their bodies were buried on the spot. Owing to the passage of time, it is impossible to locate them now.

2. On August 22-23, 1956 a military aircraft of U.S. made intruded into China's airspace over the Shengszu Islands, Kiangsu Province. It was hit and later crashed. At the time of the incident, the Chinese side recovered the bodies of two crew members from the sea, which were handed over to the U.S. side through the British representative in Shanghai on September 12, 1956. The Chinese side has no information on what happened to the other twelve crew members about whom the U.S. side has made inquiries.

3. On April 9, 1965 eight U.S. military planes intruded into China's airspace over Hainan Island, Kwangtung Province, one of which crashed into the sea in that area. The Chinese side has no information about the two pilots on this plane, about whom the U.S. side has made inquiries.

4. On April 12, 1966 a U.S. military plane intruded into China's airspace over Leichow peninsula, Kwangtung Province. It was shot down into the sea. Afterwards, Chinese local inhabitants found the body of pilot Kenneth W. Pugh on a beach and buried him. The Chinese side has no information on what happened to the other three about whom the U.S. side has made inquiries.

5. On August 21, 1967 two U.S. military planes intruded into China's airspace over the Kwangsi Chuang Autonomous Region and were shot down. One of the planes crashed near Chiangkou. One of its crew, Robert Flynn, was captured and later released on March 15, 1973. The body of another crew member, Jimmy L. Buckley, was found and buried by Chinese local inhabitants. The other plane crashed in remote mountains. The Chinese side has no information concerning its two crewmen about whom the U.S. side has made inquiries.

6. On February 14, 1968 two U.S. military planes intruded into China's airspace over Hainan Island, Kwangtung Province. One was shot down into the sea, and the other was hit and damaged. The Chinese side has no information on the pilot about whom the U.S. side has made inquiries.

If the U.S. side wishes, it may take back the ashes of Kenneth W. Pugh and Jimmy L. Buckley. The procedures of transfer can be handled by the Chinese and American Red Cross Societies at Shumchun.

6 OF 20
SUBCOMMITTEE ON ASIAN AND PACIFIC AFFAIRS
OF THE HOUSE FOREIGN AFFAIRS COMMITTEE

Mr. Chairman and members of the Committee, I appreciate the opportunity of coming before you today to testify on a subject with which I had close association for many years. Although my official responsibilities involving the issue of American's missing or unaccounted for in Southeast Asia ended in 1977 with the termination of the work of the Presidential Commission on missing Americans, I have maintained an active interest in the subject. I still have frequent contact with the families of these men and am keenly aware of the anguish which continues to be a daily feature of their lives.

I appear here today with mixed emotions. I am pleased that this Committee has concerned itself with the plight of those unaccounted for, and of their loved ones, at a time when this issue no longer attracts headlines in newspapers and the other public attention it once did. Your concern is a truly humanitarian one, and one which demonstrates this country's commitment to and concern with human rights in its most fundamental sense. Surely, the right to know, where that is possible, the fate of a loved one missing as a result of heeding his country's call must be a basic human right.

But I also appear here today with a profound sense of sadness, a sadness which stems from the realization that after more than fifteen years in some cases, the issue of an accounting for Americans missing in Southeast Asia is not resolved. That sense of sadness is heightened by the realization that the issue as it stands today pits

our nation's government and military services against the families of those for whom there has been no accounting. I hear very little comment any more on the role of the government of Vietnam in the accounting process, and where an accounting is physically possible, and I believe that it is in the cases of many men, it is within the power of that government to provide it.

As I contemplated my testimony, I decided that after all that I have said on the subject, I had little to add. As I reviewed my testimony before the Montgomery Subcommittee, I examined closely what I said when asked about the possibility of any Americans remaining alive in captivity in Southeast Asia. My answer was to the effect that I did not know; that I was aware that some Americans, for whom no accounting has ever been received, were alive and in captivity at one time. I further stated that there were no current indications that Americans were still being held. If asked that question today, my answer would be approximately the same, qualified by the fact that over the past two years I have had no access to current intelligence on this subject.

But I would further have to qualify my answer today. Even while the Montgomery Subcommittee was receiving assurances from Vietnamese authorities that no Americans, including, I assume, civilians, were being held captive, at least two Americans, Arlo Gay and Tucker Gouglemann, were in Vietnamese prisons, in the case of Gay only a few kilometers from where the Congressional Subcommittee was making its inquiries in Vietnam. Arlo Gay was later released, but Tucker Gouglemann died in a Vietnamese prison some time after the initial official inquiries were made in his behalf. The Vietnamese acknowledged that he died in prison only some months after the fact. If

there had been an honest response, or a forthright effort made by the Vietnamese to ascertain his whereabouts in Vietnam, if that were necessary, he, instead of his remains, would have been repatriated to the United States.

The Presidential Commission in 1977 made careful and extensive inquiries as to whether other Americans, civilian or military, held involuntarily or residing voluntarily, were still in Vietnam. While the Vietnamese answer was evasive, it certainly was not in the affirmative and was of a negative enough character to cause official U.S. spokesmen to indicate that they had no evidence of Americans still living in Vietnam, and that official Vietnamese replies to U.S. inquiries confirmed this. Now, just days ago, Private Garwood returned to the U.S. from Vietnam, where he had been, so far as I am aware, since his absence from U.S. control many years ago.

These events have caused families renewed anxiety over the fate of their loved ones, and understandably so. I am waiting myself to hear the Vietnamese reply to our questions prompted by the Garwood case.

The families of those for whom no accounting has been received understand these facts. It raises new questions in their minds about whether other Americans may still be alive in Southeast Asia. It is an indisputable fact that at one time some were, about whom nothing has since been heard. Families may well be concerned about all those, for whom no accounting has been received, but they are most particularly concerned with an individual. When we stop talking about these in as a group and examine the case of each one individually, the circumstances of loss take on new meaning. I have examined cases

individually, and I find it impossible to believe that minimal efforts on the part of the Vietnamese would not result in information on many cases of missing Americans.

Just after the Peace Agreement was signed in Vietnam, our government made a limited effort in the field to ascertain what happened to missing Americans lost in areas which were under firm control of friendly forces in 1973 and, therefore, accessible for search operations and campaigns for information among the residents of those areas. There were only a small number of missing in those areas; most Americans had been lost in areas not accessible for these efforts. Still, information about many Americans was recovered, along with a number of remains. Those efforts, I believe, demonstrate what even minimal efforts might achieve in other areas of Southeast Asia. Even in Laos, where many experts thought little information would ever be forthcoming, data received several years ago demonstrated that, at least at one time, the Pathet Lao possessed information about missing Americans.

I would not want to raise false hopes on the part of the families of the men now missing or unaccounted for about the possibility that their loved ones might still be alive in Southeast Asia. But I don't believe that my own opinions on that subject have much relevance any more for these families. The long established and continuing record of Vietnamese duplicity on this subject, culminated by the return of Robert Garwood, has already created doubts on that score which I am convinced can not be dispelled on this side of the Pacific. Only those who have created those doubts hold the power of providing even partial answers to these questions. Indeed, I am doubly concerned

that the past Vietnamese record has already prejudiced even the best efforts at obtaining an accounting. Nothing more will ever be known, I am sure, about many of those for whom we seek an accounting. Even in these cases, doubts will inevitably persist no matter what measures are undertaken now to achieve an accounting.

Under these circumstances, I am distressed to see the military services and the U.S. government as targets of the hostility and suspicion of the families of men who served their country so faithfully. If these men gave their lives for their country, there can be no doubt that their country owes these men and their families its best possible efforts in obtaining the best accounting possible.

These families today doubt in many cases that the military services are providing them with complete and accurate information about their loved ones. I know no remedy for these questions. It has been the policy of the government and the military to provide the families with all of the information which pertains, or may pertain, to their loved one. Special points of contact were provided within the services to insure that this was done. It may be appropriate, though, for the Department of Defense, to investigate alleged violations of this policy and, if they were found to be serious and consistent, take whatever steps were necessary to remedy the situation. Beyond that, I know of nothing short of complete declassification which would make more complete and accurate information available to the families.

I am not convinced, though, that serious deficiencies are present in existing organizations and procedures. It is, I believe, the vital element of trust which is missing in the relations between the families of those unaccounted for, and the U.S. government and

military services. The families understand that more information could be obtained, but I do not believe that they understand that it is not in the power of their own government to obtain it. The families have been told that little more can be done to obtain an accounting, and the military services have acted upon this presumption by the changes in status which have been made for some time now. When families are told that no more information is likely to be forthcoming about their loved one, they should be told clearly and unambiguously why. I believe that has not yet been done as clearly as necessary.

As I review the question of an accounting today, I have only two modest suggestions to make. The Montgomery Subcommittee hearings established the fact that information on a large number of could be obtained through the cooperation of the Vietnamese. What has been received thus far represents only a token of what could reasonably be expected through a good-faith Vietnamese accounting effort. I believe that it is, therefore, imperative that the U.S. government make this fact unambiguously clear for the Republic. The nation at large, and especially the families of the missing unaccounted for should know clearly that the fault does not lie home with their own leaders.

Finally, I would suggest that a memorial volume be prepared which would contain the photos of all those for whom no accounting has been received, accompanied by biographical sketches which contain the circumstances of loss and a synopsis of all the information which pertains to the statuses of those men. This would require, of course, the permission of the next-of-kin. This would make the information

*Maybe be something we could
do. Prof/cous?*

pertained to a man a matter of public record. It would be a fitting tribute to these brave men and an open statement from the government that it was concealing no pertinent information relating to an individual's status.

There are those who would say this creates a bad precedent which could not be followed if future wars occurred which resulted in large numbers of missing men. The situation in which we find ourselves today, though, is unprecedented, and common measures will not resolve it. There are family members, too, who would say that this would effectively write an end to efforts to obtain an accounting. But most of our men who were missing-in-action or prisoners of war in April, 1973, at the Termination of Operation Homecoming have now been declared presumptively dead. A memorial volume would at least leave an open record which could become an active file in the future if conditions permitted.

Mr. Chairman, this concludes my remarks. I thank you once again for the opportunity of testifying today.

HANOI REFUSES TO DISCLOSE THE FATE OF THESE MEN

The following are narrative accounts of 14 U. S. airmen who were downed in North Vietnam. All 14 men were known to be alive, on the ground in North Vietnam, or were at one time actually identified by the North Vietnamese as having been captured. None of these men appear on the much publicized and so-called "complete list" provided by the North Vietnamese on December 22, 1970. These case histories provide clear evidence that the "list" is neither accurate nor complete. The deliberate withholding of information casts serious doubt on the credibility of the North Vietnamese Government and increases anguish of the families of men who are missing.

LTJG WALTER O. ESTES, II
USN



LTJG JAMES E. TEAGUE
USN



WIFE PHOTOS OF DENNIS CAROL
BELONGING TO LTJG JAMES E. TEAGUE
AND LTJG WALTER O. ESTES, II
ORIGINATED BY THE VIETNAM NEWS
AGENCY IN HANOI

THE VIETNAM NEWS AGENCY IN HANOI
STATED THAT HANOI NEWS AGENCY
STAFF MEMBERS WERE CONCERNED IN HANOI
WIFE PHOTOS BELONGING TO LTJG JAMES E. TEAGUE
AND LTJG WALTER O. ESTES, II
ORIGINATED BY THE VIETNAM NEWS
AGENCY IN HANOI

**HANOI REFUSES TO DISCLOSE
THE FATE OF THESE MEN**

CAPT FREDERIC M. MELLOR
USAF



CAPT FREDERIC M. MELLOR, USAF, WAS
DOWN IN HANOI, VIETNAM, IN 1961. THE NORTH VIETNAM
HE ASSUMED AT THAT TIME THAT HE WAS IN VIETNAM, LANDED
IN HANOI, VIETNAM. CAPT MELLOR WAS ADVISED TO
AVOID FURTHER CONTACT WITH THE VIETNAM NEWS AGENCY
WHEN HE WAS ADVISED THAT HE WAS IN HANOI AND AN ATTEMPT
WAS MADE TO CONTACT THE VIETNAM NEWS AGENCY. THERE WAS NO
CONTACT WITH THE VIETNAM NEWS AGENCY.

**HANOI REFUSES TO DISCLOSE
THE FATE OF THIS MAN**

CAPT SAMUEL E. WATERS USAF



PHOTO OF IDENTITY CARD BELONGING
TO CAPTAIN SAMUEL E. WATERS-USA
PUBLISHED IN THE VIETNAM COURIER ON
10 DECEMBER 1966

CAPTAIN SAMUEL E. WATERS WAS DOWNED IN HOA BINH PROVINCE
NORTH VIETNAM ON DECEMBER 11, 1966. HE WAS SEEN TO EJECT
SUCCESSFULLY AND TO OPEN A GOOD PARACHUTE. THE DECEMBER
11, 1966 EDITION OF THE NEWSPAPER VIETNAM COURIER PUBLISHED
IN HANOI REPORTED THAT WATERS WAS CAPTURED ON DECEMBER 11,
1966. AN AGENCY FRANCE PRESSE REPORT OF DECEMBER 17, 1966
STATED THAT CAPTAIN WATERS WAS KILLED ON DECEMBER 11, 1966.
ON JANUARY 11, 1967 A BULGARIAN NEWSPAPER "NARODA ARMIYA"
CARRIED AN ARTICLE QUOTING CAPTAIN WATERS AND INCLUDING
A PICTURE OF HIS PERSONAL IDENTITY DOCUMENTS.

**HANOI REFUSES TO DISCLOSE
THE FATE OF THIS MAN**

MAJ ELWYN R. CAPLING USAF



MAJOR ELWYN R. CAPLING WAS DOWNED IN DUONG BINH
PROVINCE, NORTH VIETNAM, ON DECEMBER 14, 1966. HE WAS
DOWNED IN THE AREA OF THE DUONG BINH PROVINCE, NORTH VIETNAM,
AND LANDING ON THE GROUND. BY RADIO HE REPORTED HIS LEG
WAS BROKEN AND REQUIRED HELP. RECENT ATTEMPTS WERE
UNSUCCESSFUL BECAUSE OF THE HEAVY CONCENTRATION OF NORTH
VIETNAMESE FORCES IN THE IMMEDIATE AREA.

**HANOI REFUSES TO DISCLOSE
THE FATE OF THIS MAN**

CAPT JOHN M. BRUCHER USAF



...HANOI REFUSES TO DISCLOSE
THE FATE OF THIS MAN

**HANOI REFUSES TO DISCLOSE
THE FATE OF THIS MAN**

LT JAMES K. PATTERSON USN



...HANOI REFUSES TO DISCLOSE
THE FATE OF THIS MAN

**HANOI REFUSES TO DISCLOSE
THE FATE OF THIS MAN**

LCDR MILTON J. VESCELIUS USN



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**HANOI REFUSES TO DISCLOSE
THE FATE OF THIS MAN**

CAPT WILLIAM R. ANDREWS USAF



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**HANOI REFUSES TO DISCLOSE
THE FATE OF THIS MAN**

MAJ JOSEPH C. MORRISON
USAF



CAPT SAN D. FRANCISCO, USAF

MAJ JOSEPH C. MORRISON, USAF, WAS KILLED IN ACTION ON MAY 1, 1967, WHILE ON A MISSION TO LOCATE AND RESCUE DOWNED AIRCRAFT. HE WAS A MEMBER OF A NORTH VIETNAM AIR FORCE UNIT. CAPT SAN D. FRANCISCO, USAF, WAS KILLED IN ACTION ON MAY 1, 1967, WHILE ON A MISSION TO LOCATE AND RESCUE DOWNED AIRCRAFT. HE WAS A MEMBER OF A NORTH VIETNAM AIR FORCE UNIT.

**HANOI REFUSES TO DISCLOSE
THE FATE OF THESE MEN**

CAPT ARTHUR L. WARREN
USAF



CAPT ARTHUR L. WARREN, USAF, WAS KILLED IN ACTION ON MAY 1, 1967, WHILE ON A MISSION TO LOCATE AND RESCUE DOWNED AIRCRAFT. HE WAS A MEMBER OF A NORTH VIETNAM AIR FORCE UNIT. CAPT ARTHUR L. WARREN, USAF, WAS KILLED IN ACTION ON MAY 1, 1967, WHILE ON A MISSION TO LOCATE AND RESCUE DOWNED AIRCRAFT. HE WAS A MEMBER OF A NORTH VIETNAM AIR FORCE UNIT.

**HANOI REFUSES TO DISCLOSE
THE FATE OF THIS MAN**

LCDR VINCENT D. MONROE USN



LCDR VINCENT D. MONROE WAS DOWNED IN NORTH VIETNAM ON MAY 4, 1968. EMERGENCY RADIO SIGNALS WERE RECEIVED FROM LCDR MONROE AND HIS CREW MEMBER WHOSE STATUS AS A PRISONER HAS BEEN ACKNOWLEDGED BY NORTH VIETNAM. RADIO HANOI ANNOUNCED THE CAPTURE OF TWO AMERICANS AT THE TIME AND PLACE OF LCDR MONROE'S DOWN.

**HANOI REFUSES TO DISCLOSE
THE FATE OF THIS MAN**

LCDR RANDOLPH W. FORD USN



DETACHED FROM FORD WAS DOWNED IN NORTH VIETNAM ON MAY 4, 1968. EMERGENCY RADIO SIGNALS WERE RECEIVED FROM LCDR FORD AND HIS CREW MEMBER WHOSE STATUS AS A PRISONER HAS BEEN ACKNOWLEDGED BY NORTH VIETNAM. RADIO HANOI ANNOUNCED THE CAPTURE OF TWO AMERICANS AT THE TIME AND PLACE OF LCDR FORD'S DOWN.

**HANOI REFUSES TO DISCLOSE
THE FATE OF THIS MAN**

